

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 683 Energy Infrastructure Investment
SPONSOR(S): Energy, Communications & Cybersecurity Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Energy, Communications & Cybersecurity Subcommittee		Bauldree	Keating

SUMMARY ANALYSIS

The Public Service Commission (PSC) has broad jurisdiction over the rates and service of public (investor-owned) electric and natural gas utilities in Florida. The PSC sets rates for these utilities through various mechanisms to allow the utilities to recover their legitimate costs of providing service, including a return on the utility’s prudent capital investments.

Renewable natural gas (RNG) is the gaseous product of the decomposition of organic matter, processed into a pipeline-quality gas that is fully interchangeable with conventional natural gas. Primary sources of RNG include landfills, livestock operations, and wastewater treatment facilities. Hydrogen fuel is produced predominantly from natural gas but can also be produced, at a greater cost, by electrolysis powered by renewable energy.

The bill provides that the PSC may create an experimental mechanism to facilitate investment in energy infrastructure consistent with the legislature’s intent to promote renewable energy and the definition of “renewable natural gas.” Thus, it appears that the bill authorizes the PSC to create an experimental mechanism to promote investment in renewable natural gas infrastructure.

The bill does not appear to impact state or local government revenues or expenditures.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Rate Setting for Public Utilities

The Public Service Commission (PSC) has broad jurisdiction over the rates and service of public (investor-owned) electric and natural gas utilities in Florida.¹ Under this broad grant of authority, and through more specific grants of authority in Chapter 366, F.S., the PSC sets rates for such utilities through various mechanisms, each of which is established in a separate administrative proceeding:

- Base rates (set for electric and natural gas utilities)
 - Adjusted as needed in a general rate case, conducted through a formal evidentiary hearing for electric utilities and either a formal or informal proceeding for natural gas utilities.²
 - Designed to recover most operations and maintenance expenses, depreciation expense (recovery of capital investment over time), and a return on capital investment.
- Fuel and purchased power cost recovery charges (set for electric utilities only)
 - Adjusted annually through a formal evidentiary hearing.
 - Designed to recover the costs of fuel and the energy component of wholesale power purchases.
 - By PSC order, may include recovery of certain capital investments, including a return on investment.
- Purchased gas adjustment charges (set for natural gas utilities only)
 - Adjusted annually through a formal evidentiary hearing.
 - Designed to recover the costs of wholesale natural gas purchases.
- Capacity cost recovery charges (set for electric utilities only)
 - Adjusted annually through a formal evidentiary hearing.
 - Designed to recover costs of the capacity component of wholesale power purchases.
 - By statute, may include recovery of certain costs related to development of new nuclear power plants, including a return.³
- Environmental cost recovery charges (set for electric utilities only)
 - Adjusted annually through a formal evidentiary hearing.
 - Designed to recover costs to comply with government-mandated environmental standards.
 - By statute, may include recovery of certain capital investments, including a return on investment.⁴
- Storm protection plan cost recovery charges (set for electric utilities only)
 - Adjusted annually through a formal evidentiary hearing.
 - Designed to recover costs to implement PSC-approved storm protection plans.
 - By statute, may include recovery of certain capital investments, including a return on investment.⁵
- Energy conservation and efficiency cost recovery charges (set for electric and natural gas utilities)
 - Adjusted annually through a formal evidentiary hearing.
 - Designed to recover costs of implementing PSC-approved energy conservation and efficiency programs.

¹See, e.g., ss. 366.01, 366.04(1), 366.041, 366.05(1), and 366.06, F.S.

²A natural gas utility or a public electric utility whose annual sales to end-use customers amount to less than 1,000 gigawatt hours may request that the PSC process the utility's petition for rate relief using an informal "proposed agency action" procedure. S. 366.06(4), F.S.

³S. 366.93, F.S.

⁴S. 366.8255, F.S.

⁵S. 366.96, F.S.

As required by law, the PSC sets base rates to allow utilities to recover their legitimate costs of providing service (not otherwise recovered through another cost recovery mechanism), including a return on the utility's prudent capital investments ("rate base").⁶ In each rate case, the PSC sets a "reasonable" rate of return on equity for each utility to apply to its rate base. This rate is typically applied to the utility's investments that the PSC allows to be recovered through cost recovery mechanisms other than base rates.

The PSC is also authorized to establish certain experimental rates.⁷

Renewable Energy

Florida law provides that it is in the public interest to promote the development of renewable energy resources to help diversify fuel types for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.⁸ The law defines renewable energy as energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power.⁹

Renewable Natural Gas

Renewable natural gas (RNG) is the gaseous product of the decomposition of organic matter, processed into a pipeline-quality gas that is fully interchangeable with conventional natural gas. Primary sources of RNG include landfills, livestock operations, and wastewater treatment facilities.¹⁰

In 2021, the Legislature added the term "renewable natural gas" to Florida law and defined it as "anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline." The legislation authorized the PSC to approve cost recovery for the purchase of RNG by natural gas public utilities, even if pricing exceeds the current market price of natural gas, if the PSC deems the purchase to be reasonable and prudent.¹¹

Effect of the Bill

The bill provides that the PSC may create an experimental mechanism to facilitate investment in energy infrastructure consistent with the legislature's intent to promote renewable energy and the definition of "renewable natural gas." Thus, it appears that the bill authorizes the PSC to create an experimental mechanism to promote investment in renewable natural gas infrastructure. Under the bill, the experimental mechanism must be consistent with part of the structure set forth in current law for storm protection plan cost recovery.^{12, 13}

⁶ Ss. 366.041(1) and 366.06(1), F.S.

⁷ S. 366.075, F.S.

⁸ S. 366.91, F.S.

⁹ S. 366.91(2)(e), F.S. The term also includes waste heat from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

¹⁰ Office of Energy Efficiency & Renewable Energy, *Alternative Fuels Data Center – Renewable Natural Gas Production*, U.S. Department of Energy, https://afdc.energy.gov/fuels/natural_gas_renewable.html (last visited Jan. 27, 2024).

¹¹ Ch. 2021-178, Laws of Fla., codified at s. 366.91(2)(f) and (9), F.S.

¹² Section 366.96(7), F.S., provides that after the PSC approves a utility's transmission and distribution storm protection plan, proceeding with actions to implement the plan shall not constitute or be evidence of imprudence. Furthermore, this section provides that The PSC shall conduct an annual proceeding to determine the utility's prudently incurred transmission and distribution storm protection plan costs and allow the utility to recover such costs through a charge separate and apart from its base rates, to be referred to as the storm protection plan cost recovery clause. If the PSC determines that costs were prudently incurred, those costs will not be subject to disallowance or further prudence review except for fraud, perjury, or intentional withholding of key information by the public utility. S. 366.96(7), F.S.

¹³ Section 366.96(8), F.S., provides that annual transmission and distribution storm protection plan costs may not include costs recovered through the public utility's base rates and must be allocated to customer classes pursuant to the rate design most recently approved by the PSC. S. 366.96(8), F.S.

Under the bill, the PSC may decide if the experimental mechanism is conducted in an annual proceeding. The PSC must adopt rules to implement and administer the provisions of the bill and propose a rule as soon as practicable, but no later than October 31, 2024.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

Section 1: Amends s. 366.075, F.S., relating to experimental transitional rates.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires the PSC to propose and adopt a rule to implement the bill within a specified timeline.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

Not applicable.