COMMITTEE REPORT

January 10, 2018

**H. 4380**

Introduced by Reps. McCoy, Ott, Lucas, Anderson, Ballentine, Blackwell, Caskey, Crawford, Crosby, Davis, Finlay, Forrester, Gilliard, Hardee, Henegan, Hixon, Mack, Pope, Rutherford, J.E. Smith, Sandifer, Stavrinakis, Erickson, Huggins, W. Newton, Bales, Young, McEachern, Clary, Tallon, Brown, Robinson‑Simpson, V.S. Moss, Clyburn and Bennett

S. Printed 1/10/18--H.

Read the first time January 9, 2018.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4380) to amend the Code of Laws of South Carolina, 1976, by adding Section 58‑27‑875 so as to provide the Public Service Commission shall order refunds to ratepayers, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

F. GREGORY DELLENEY for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 58‑27‑875 SO AS TO PROVIDE THE PUBLIC SERVICE COMMISSION SHALL ORDER REFUNDS TO RATEPAYERS OF AMOUNTS COLLECTED FOR COSTS ATTRIBUTED TO PROJECTS CONSTRUCTED UNDER THE PROVISIONS OF THE BASE LOAD REVIEW ACT IN SPECIFIC CIRCUMSTANCES; TO PROVIDE UTILITIES BEAR THE BURDEN OF PROVING THAT COLLECTED COSTS MAY BE RECOVERABLE UNDER STATE LAW; AND TO PROVIDE THE COMMISSION SHALL ORDER SUCH REFUNDS ON JUST AND REASONABLE BASES AND MAY MAKE SUCH REFUNDS BY ESTABLISHING CREDITS TO RATEPAYERS OVER PERIODS OF TIME AND UNDER CONDITIONS THAT ARE JUST AND REASONABLE.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 7, Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Section 58‑27‑875. (A) The Public Service Commission shall order a refund to ratepayers of all amounts collected for costs attributed to a project constructed under the provisions of the Base Load Review Act, if it finds the costs:

(1) are not actually used and useful for utility purposes as defined in Section 58‑34‑110;

(2) constitute a wrongful taking under the South Carolina Constitution, 1895, or the United States Constitution;

(3) were the result of imprudence on the part of the utility;

(4) were the result of a wilful misrepresentation or failure to disclose material facts by the utility; or

(5) were the result of poor management or oversight by the utility.

(B) For the purposes of this section, the utility shall bear the burden of proving that the costs collected may be recoverable under applicable state law.

(C) The commission shall order a refund of such amounts to the ratepayers on a basis that is just and reasonable. In acting to provide for refunds, the commission may do so by establishing a credit to ratepayers over a term and under conditions that are just and reasonable.”

SECTION 2. This act takes effect upon approval by the Governor.

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