CONFERENCE COMMITTEE REPORT ADOPTED -- NOT PRINTED

June 27, 2018

**S. 954**

Introduced by Senators Leatherman, Setzler, Massey and Fanning

S. Printed 4/18/18--S.

Read the first time January 21, 2018.

**A** **JOINT RESOLUTION**

TO PROVIDE FOR AN EXPERIMENTAL RATE FOR CUSTOMERS OF A PUBLIC UTILITY WHO ARE PAYING COSTS ASSOCIATED WITH THE BASE LOAD REVIEW ACT; TO PROHIBIT THE PUBLIC SERVICE COMMISSION FROM HOLDING A HEARING ON THE MERITS FOR A MATTER RELATED TO THE BASE LOAD REVIEW ACT BEFORE NOVEMBER 1, 2018, BUT MUST ISSUE A FINAL ORDER ON THE MERITS BY DECEMBER 21, 2018; AND TO SUSPEND PROVISIONS IN TITLE 58 THAT ARE IN CONFLICT WITH THE PROVISIONS OF THIS JOINT RESOLUTION FOR MATTERS RELATED TO THE V.C. SUMMER NUCLEAR REACTOR UNITS 2 AND 3 UNTIL THE PUBLIC SERVICE COMMISSION ISSUES ITS FINAL ORDER IN THE MATTER.

Whereas, while SCANA has taken steps to reduce its own costs related to the abandoned Project, such as obtaining a guaranty settlement from Toshiba in the amount of approximately $1.2 billion for SCANA’s ownership interests, and also has received benefits from the recent federal tax code amendments, its customers’ rates continue to reflect 100% of authorized Project costs prior to abandonment; and

Whereas, the General Assembly recognizes that SCANA, as a corporate entity, has legal rights and remedies that must be considered and respected throughout the process of resolving cost recovery issues for the abandoned Project, yet believes that recognition of SCANA’s legal rights and remedies does not require that SCANA customers continue to pay 100% of the rates previously authorized by the Commission when the Project was expected, upon completion, to provide valuable services to the customers; and

Whereas, the General Assembly recognizes the need for adequate discovery by all parties, and therefore is extending the time period for the Public Service Commission to issue its final order in this matter; and

Whereas, the General Assembly passed the BLRA in 2007 for the explicit purpose of providing “recovery of the prudently incurred costs associated with new base load plants...when constructed by investor‑owned electrical utilities, while at the same time protecting customers of investor‑owned electrical utilities from responsibility for imprudent financial obligations or costs”; and

Whereas, the General Assembly, with the passage of the BLRA in 2007 did not intend to, and could not, overrule a fundamental regulatory principal for utility rate‑making that rates must be just and reasonable, the fundamental regulatory principal codified in South Carolina Code Section 58‑27‑810; and

Whereas, the General Assembly is concerned that the rates that SCANA customers are currently paying are unjust and unreasonable; and

Whereas, Section 1, Article IX of the Constitution of this State vests the General Assembly with authority to regulate investor-owned utilities in order to protect the public interest; and

Whereas, based upon information identified in this Joint Resolution, along with other information recently made available to the South Carolina House of Representative and the South Carolina Senate, the General Assembly finds that serious questions have arisen regarding the prudency of incurred costs that have led to rate increases pursuant to the BLRA for the abandoned Project, including SCANA’s apparent failure to avoid or minimize costs that should have been avoided or minimized since at least 2011; and

Whereas, the General Assembly recognizes the protections provided by the Constitutions of the United States and the State of South Carolina, and has no desire or intention to set a rate that is unjust, unreasonable, or confiscatory, nor does it intend to jeopardize SCANA’s ability to satisfy bond payment obligations associated with the V.C. Summer nuclear units 2 and 3; and

Whereas, the General Assembly also believes it is in the public interest of all its citizens, both private citizens and corporate, to rely upon incentives offered by the General Assembly to encourage growth in South Carolina, however, this reliance should be predicated upon a good faith effort to comply with all terms of any incentives so that noncompliance or misrepresentation in order to obtain offered incentives are not unfairly born by South Carolina’s citizens;

Now, therefore,

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

SECTION 1. The Public Service Commission shall not hold a hearing on the merits before November 1, 2018, for a docket in which requests were made pursuant to the Base Load Review Act; however, the Public Service Commission may hold an administrative or procedural hearing for such a docket prior to a hearing on the merits. The Public Service Commission must issue a final order on the merits for a docket in which requests were made pursuant to the Base Load Review Act no later than December 21, 2018.

SECTION 2. No final determination of matters described in this joint resolution, whether by a final order issued by the Public Service Commission or by operation of law, shall occur earlier than the time period prescribed in SECTION 1. The Public Service Commission’s failure to issue a final order prior to the time period established in this joint resolution shall not constitute approval by the Public Service Commission and a utility must not put into effect the change in rates it requested in its schedule.

SECTION 3. Any statute in Title 58 in conflict with the provisions of this joint resolution are suspended for purposes of the utility rates for matters related to V.C. Summer Nuclear Reactor Units 2 and 3 at Jenkinsville, South Carolina. This suspension remains in effect until the Public Service Commission issues its final order in this matter.

SECTION 4. If any provision of this joint resolution is held or determined to be unconstitutional, invalid, or otherwise unenforceable by a court of competent jurisdiction, it is the intention of the General Assembly that the provision is severable from the remaining provisions of this joint resolution and that the holding does not invalidate or render unenforceable another provision of this joint resolution.

SECTION 5. This joint resolution takes effect upon approval by the Governor. /

/s/Sen. Nikki G. Setzler /s/Rep. Peter M. McCoy, Jr.

/s/Sen. Luke A. Rankin, Sr. /s/Rep. Kirkman Finlay, III

/s/Sen. A. Shane Massey /s/Rep. J. Todd Rutherford

On Part of the Senate. On Part of the House.

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