

January 2019

State Legislation and Regulations Supporting Nuclear Energy

Alaska	1
Arkansas	2
Colorado	2
Connecticut	2
Florida	3
Georgia	4
Idaho	5
Illinois	6
Indiana	7
Iowa	8
Kansas	9
Kentucky	10
Louisiana	11
Maryland	11
Michigan	11
Mississippi	12
New Jersey	13
New Mexico	13
New York	13
North Carolina	14
North Dakota	16
Ohio	16
Pennsylvania	17
South Carolina	17
Tennessee	19
Texas	19
Utah	20
Virginia	22
Washington	24
Wisconsin	25
Wyoming	26

ALASKA

Legislation: S. B. 220, the Alaska Sustainable Energy Act
Enacted July 9, 2010

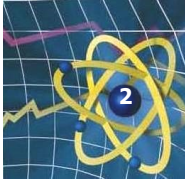
This legislation established a statewide energy policy and opened the door to nuclear generation along with an expanded menu of renewable and alternative energy sources, efficiency, and conservation programs to provide Alaskans more energy choices at lower cost.

Key elements:

- ▶ Repeals Alaska’s moratorium on nuclear electric power.
- ▶ Levels the playing field for nuclear energy projects so they may be considered along with other energy sources.
- ▶ Allows small-scale nuclear reactor developers to apply for funding from Alaska’s Power Project Fund.
- ▶ The legislation also establishes funding programs for energy efficiency improvements in schools and government buildings, heating assistance for low-income families, testing emerging energy technologies, and for generation and transmission projects in southeast Alaska.



NUCLEAR ENERGY INSTITUTE



ARKANSAS

Legislation: SB 246, An Act to Promote Sustainment and Development of Economical Energy Sources by Establishing the Arkansas Energy Summary and Report; and for other purposes (Act 280)

Enacted March 5, 2013

The Arkansas State Legislature determined that the state needs to create and promote a comprehensive energy summary and report, with the collaboration of all the state's institutions of higher education. This legislation creates an Institutional Energy Research Committee to coordinate energy research and create the report. This bill directs that the report include the state's energy production and usage, its current sources of energy by percentage and cost, current demand and use of each energy source, and projected energy use for the next 20 years. The report will also incorporate research and data on the costs of additional energy production facilities, including nuclear power, and other information such as each energy source's environmental challenges and impact and possible tax incentives or government policies to promote an increase in energy production capacity.

COLORADO

Legislation: S.B. 18-003

Enacted June 1, 2018

The state legislature passed an amendment to update the statutes governing the Colorado Energy Office. Among other changes, S.B. 3 adds nuclear power as a preferred energy source that the office is tasked to promote. The revised statute includes nuclear energy under the "cleaner energy sources" classification, along with biomass and biogas.

CONNECTICUT

Legislation: S.B. 106/H.B. 1501

Enacted October 2017

This legislation allows for the Millstone nuclear power plant to participate in the state's zero-carbon procurement program, an established program eligible to other clean technologies such as solar and Canadian hydro. The program requires the PURA to verify applicant viability and final awards are given by the Department of Energy and Environmental Protection for multi-year power purchase agreements.



FLORIDA

Legislation: HB 7109

Enacted June 10, 2015

The Florida legislature adopted HB 7109, which authorizes electric utilities to petition the Florida Public Service Commission (PSC) for financing orders that authorize the issuance of nuclear asset recovery bonds.

Legislation: SB 1472

Enacted June 14, 2013

The Florida legislature adopted SB 1472 to amend existing Florida law governing new nuclear and integrated gasification combined cycle power plants. To enhance consumer protections, this legislation makes several changes to the law.

Legislation: S.B. 1544/H.B. 7135

Enacted June 25, 2008

This comprehensive energy bill permits cost recovery for transmission lines for new nuclear power plants. The legislation also moves the state toward renewable energy sources and greenhouse gas reductions.

Legislation: S.B. 888

Enacted June 2006

This legislation includes several provisions to support construction of new nuclear plants in Florida.

Key elements:

- ▶ Directs the PSC to consider fuel diversity and reliability in determining the need for a proposed electric power plant.
- ▶ Exempts new nuclear power plant projects from the mandatory competitive bidding process.
- ▶ Instructs the PSC to establish alternative cost recovery mechanisms that allow recovery of preconstruction costs and the carrying costs on the projected construction cost through the capacity cost recovery clause.
- ▶ Pre-construction costs may accrue a carrying charge equal to the utility's allowance for funds used during construction (AFUDC) rate until those costs are recovered in rates.
- ▶ Once the PSC grants a determination of need, challenges to cost recovery are prohibited except if costs were imprudent. Proceeding with construction and incurring cost increases beyond a utility's control are not evidence of imprudence.



- ▶ Once a nuclear plant is in service, ongoing costs are recovered through base rate increases.
- ▶ If construction is not completed, the utility is allowed to recover all prudent pre-construction and construction costs incurred following determination for need.

GEORGIA

Regulation: Docket No. 27800

Georgia Public Service Commission

Adopted March 2009

In this Amended Certification Order, the Commission approves the request by Georgia Power Company for certification to build two new nuclear generating units at the Vogtle station. For a company to proceed with the construction of new generating units and to seek recovery of financing costs from ratepayers, state law requires the company to obtain such a certification.

Key elements:

- ▶ Georgia Power Company's application for the certification of Vogtle Units 3 and 4, as modified, is approved.
- ▶ The certified in-service cost of Georgia Power Company's interest in Plant Vogtle Units 3 and 4 shall be \$6.446 billion.
- ▶ Georgia Power Company's selection of the AP1000 technology is reasonable and prudent.
- ▶ Georgia Power Company's request to place Vogtle Units 3 & 4 Construction Work in Progress (CWIP) into retail rate base is granted.
- ▶ Georgia Power Company and the Commission Staff shall work together to develop a risk-sharing mechanism that will provide some level of protection to ratepayers in the event of significant cost overruns but not penalize the earnings on Units 3 and 4 if and when the overruns are due to mandates from governing agencies.

Legislation: S.B. 31

Enacted April 2009

The "Georgia Nuclear Energy Financing Act," amends existing Georgia law to allow a utility to recover from its customers the costs of financing associated with the construction of a nuclear plant that has been certified by the Georgia Public Service Commission.

Key Elements:

- ▶ The financing charges shall accrue on all applicable certified costs as they are recorded in the utility's construction work in progress (CWIP) accounts.
- ▶ The financing costs shall be based on the utility's actual cost of debt and



authorized cost of equity.

- ▶ The financing costs shall be recovered from each customer on an equal percentage basis.
- ▶ The Commission shall retain discretion when setting charges on senior or low-income assisted customers.

IDAHO

Legislation: H.B. 591; H.B. 592

Enacted March 2018

Idaho adopted legislation to provide tax exemptions for new capital investments and sales and use tax exemptions for Idaho National Laboratory to yield present value tax savings for research and development activities related to Small Modular Reactors.

Regulation: Executive Order No. 2018-07

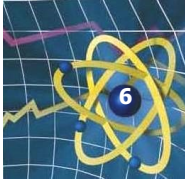
Enacted June 2018

Governor Butch Otter issued Executive Order No. 2018-07, "Establishing a Policy for Nuclear Energy Production and Manufacturing in Idaho," which supports the continued promotion, advancement and deployment of advanced reactor technologies, including small modular reactors, in Idaho.

Legislation: S.B. 1123

Enacted April 2009

This legislation recognizes that utilities are embarking on major transmission and generation projects to serve growing loads during a period when financial markets are risk-averse and is designed to provide the stability necessary to attract investors at a more reasonable cost-of-capital. It expands the Public Utilities Commission's ability to shape the resources in a utility's portfolio prior to construction or commitment to a given resource. It provides additional surety to capital markets that utility expenditures are prudent and pose less risk of financial loss. These voluntary provisions are designed to benefit utility customers through lower financing costs and provide a more transparent system of resource selection. Utilities now may now file an application with the Commission for a binding order specifying in advance the use of nontraditional rate-making treatment or nontraditional cost recovery mechanisms.



ILLINOIS

Legislation: S.B. 2814

Enacted December 7, 2016

The Illinois legislature adopted the Future Energy Jobs Bill on December 1, 2016, and the governor of Illinois signed it on December 7, 2016.

Key Elements:

- ▶ Sets forth a zero emission standard.
- ▶ Defines “zero emission facility” to mean a facility that: (1) is fueled by nuclear power; and (2) is interconnected with PJM Interconnection or the Midcontinent Independent System Operator.
- ▶ Allows electric utilities to recover through tariff charges all of the costs associated with the purchase of zero emission credits from zero emission facilities and allows recovery of certain other costs provided that certain criteria are satisfied.
- ▶ Requires the Planning and Procurement Bureau to include in procurement plans and competitive procurement processes the procurement of zero emission credits from zero emission facilities for the utilities' retail customers.
- ▶ Provides that, beginning with the delivery year commencing on a specified date, the procurement plans shall include cost-effective zero emission credits from zero emission facilities in a specified amount.

Resolution: House Resolution 1146, Nuclear Power Plant Closures

Adopted May 29, 2014

The Illinois House of Representatives adopted House Resolution 1146. This resolution finds, among other things, that the state's eleven nuclear power plants contribute to the state's low electricity prices, form a powerful economic engine, supply 92 percent of the state's emission-free electricity generation, and are at risk of premature shutdown for a variety of electric transmission and economic reasons.

Through this resolution, the Illinois House urges the federal government and the midwest grid operator to adopt policies and rules to protect Illinois's nuclear plants for the sake of the environment, the economy and energy reliability. The resolution also directs Illinois state agencies to protect the nuclear facilities and to study market-based solutions, the societal costs of increased greenhouse gas emissions, and the the economic and reliability impacts of closing plants.



INDIANA

Resolution: House Resolution 54

Adopted March 19, 2013

The Indiana House of Representatives found that there is renewed interest in small and simpler units for generating electricity from nuclear power, and resolved to urge the Indiana Legislative Council to assign to the regulatory flexibility committee the task of studying, during 2013, small modular nuclear reactors.

This resolution urged the committee to study several aspects of small reactors, including: economic issues such as cost, economic impact, potential job creation, cost savings for electricity consumers; and technical, design, and regulatory questions.

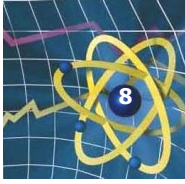
Legislation: S.B. 251

Enacted May 10, 2011

This wide-ranging energy legislation provides for, among other things, financial incentives to assist electric companies with nuclear generating facilities to recover costs and expenses incurred during comprehensive life cycle management upgrades to existing facilities. The upgrades must enhance the facility's safe and reliable operation.

Key elements:

- ▶ The law amends the Indiana Code's definition of "clean energy project" to include projects that enhance nuclear safety and reliability, the purchase of fuels or energy by a nuclear power plant, and electric transmission facilities that serve a nuclear plant.
- ▶ A "nuclear facility" is defined to include those undergoing comprehensive life cycle management projects and includes their transmission lines and associated equipment.
- ▶ "Qualified utility system expenses" is redefined to include the costs associated with the study, analysis, or development of a life cycle management project for a nuclear plant.
- ▶ The financial incentives include timely recovery of costs and expenses incurred during construction and operation, the authorization of up to three percentage points on the return on shareholder equity on these projects, and the recovery of costs and expenses related to the purchase of fuel and energy.



IOWA

Legislation: H.F. 2399

Enacted April 28, 2010

This legislation requires certain Iowa utilities to analyze and prepare for the possible construction of new nuclear generating facilities. It also allows utilities to make significant alterations to existing power stations.

Key elements:

- ▶ The law is designed to help electric utilities determine the feasibility of clean sources of energy: HF 2399 encourages utilities to perform studies, at a limited cost to ratepayers and with the oversight of the Iowa Utilities Board, on expanding nuclear power in Iowa.
- ▶ The legislation also amends existing law related to electricity generation and to switching existing coal-based plants to other fuel sources. Utilities will be allowed to raise rates to pay for investments that may lead to lower carbon emissions from current plants. This opens the door for plants to switch from coal to natural gas, add “carbon capture” to existing plants, and add gas or biomass as a primary source of fuel for these plants.

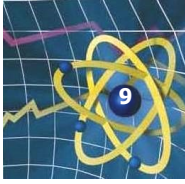
Legislation: H.F. 577

Enacted 2001

Iowa passed legislation aimed at attracting the development of sufficient in-state generation and transmission. It allows the Iowa Utilities Board (IUB) to specify the rate-making principles that will apply when a new baseload generating facility (built or leased) begins service before construction commences or a lease is signed. Rate-making principles typically include elements like the return on equity for that project (can be different from the utility’s general ROE), the depreciable life of the project and any recovery of stranded costs if the project is prudently canceled.

Key elements:

- ▶ The baseload facility must have a nameplate capacity of 300 MW or greater.
- ▶ To receive advanced rate determination on a project, the regulated utility must demonstrate 1) that it has in place an IUB-approved energy efficiency plan, and 2) that the proposed facility or lease is reasonable when compared to other feasible alternative sources of supply. The IUB has discretion on what is deemed reasonable. In cases that have appeared since HF 577 was enacted, least cost is not the sole standard. Environmental considerations have also been considered.
- ▶ In determining the future rate, the IUB “shall not be limited to traditional rate-making principles or traditional cost recovery mechanisms.”
- ▶ The rate-making principles established for a project are binding and cannot be changed in subsequent rate proceedings.



KANSAS

Legislation: S.B. 586

Enacted May 2008

This bill allows nuclear power plants to qualify for recovery of Construction Work in Progress (CWIP) and other preconstruction expenditures in rates. Previously, nuclear power plants were excluded from this treatment.

Key elements:

- ▶ This bill requires the Kansas Corporation Commission (KCC) to allow a utility to recover in rates prudent expenditures for developing a new nuclear plant. These development costs may include preliminary engineering, feasibility studies, prepayments for major equipment and permitting.
- ▶ Utilities can also seek predetermination of ratemaking principles that would apply to recover these costs.
- ▶ Costs of nuclear plant construction may be included in customer rates before the plant is operational.
- ▶ This legislation requires the KCC to allow utilities to capitalize and add to their rate base costs for energy efficiency, conservation and demand response programs.

Legislation: H.B. 2038

Enacted April 2007

This legislation would exempt from state property taxes any property purchased, constructed or installed to expand capacity at an existing nuclear plant or to build a new nuclear plant.

Key elements:

- ▶ A qualifying new nuclear plant must be within three miles of an existing reactor.
- ▶ Expanded capacity must increase an existing facility's capacity by at least 10 percent.
- ▶ Eligible projects that add nuclear capacity must be started after December 31, 2006.
- ▶ Property tax exemption begins at the start of construction or installation of the property and continues for 10 years after the construction or installation is complete. If new nuclear capacity that is already expanded or operating is purchased, the exemption is for 10 years after purchase.
- ▶ In lieu of property taxes, a fee must be paid to the state equal to the tax on the real property (land) on which the expanded nuclear capacity is being constructed or exists.
- ▶ The provision reduces the siting requirements for a qualifying nuclear project.



- ▶ Construction of a new nuclear plant requires a permit from the KCC. In considering the application for such a permit, the KCC will make a decision based on whether the proposed nuclear plant will help meet the state's electricity demand and whether the existing generating capacity is "capable of being distributed economically, reliably, technically and environmentally." The decision is not purely based on economics.
- ▶ Once the KCC issues a permit to build a nuclear plant, no local ordinance, resolution or regulation can prohibit its construction.

Legislation: Substitute for H.B. 2516

Enacted April 2004

This bill expanded upon the 2003 legislation described below. One clause of particular interest allows the KCC to make adjustments to a utility's revenue requirements allowing the utility to retain benefits equivalent to 10 percent of the net revenue from electricity sold to out-of-state customers generated from a new or expanded generator in a county with 5 percent or less population growth.

Legislation: Substitute for S.B. 104

Enacted April 2003

This legislation permits the KCC to determine rate-making principles that will apply to a utility's investment in generation or transmission before constructing a facility or entering into a contract for purchasing power. It is similar to Iowa's HF 577, but less restrictive.

KENTUCKY

Legislation S.B. 11

Enacted June 2017

After ten years of considering similar bills, the Kentucky legislature adopted the "Leeper Act," lifting the moratorium on the construction of new nuclear facilities. S.B. 11 repealed a law requiring a permanent federal storage facility become operational before any new nuclear power plants can be built. The moratorium on nuclear power plant construction in Kentucky had taken effect in 1984, with Kentucky joining many other states enacting similar restrictions.

Legislation H.B. 559

Enacted April 11, 2012

The Commonwealth of Kentucky adopted this legislation to allow for the construction of facilities that use certain nuclear technologies for these industrial processes:

- ▶ enrichment of depleted uranium hexafluoride tails;
- ▶ processing of metals contaminated with radioactive materials;



- ▶ recycling or reprocessing of spent nuclear fuels; and
- ▶ nuclear-assisted coal or gas conversion processes.

Kentucky's moratorium on building new nuclear facilities to generate electricity remains in force. H.B. 559 states specifically that the moratorium continues to apply to nuclear facilities that generate electricity.

LOUISIANA

Regulation: Docket No. R-29712

Louisiana Public Service Commission

Adopted May 2007

The Incentive Cost Recovery Rule for Nuclear Power Generation requires three phases of certification covering 1) siting and licensing, 2) design and development, and 3) construction to commercial operation. Once a phase is certified, costs will be reviewed and approved on an annual basis for future recovery in rates when the plant is either canceled or begins commercial operation. Cash earnings on construction work in progress will be recovered in rates during the certified phase of nuclear plant development.

MARYLAND

Regulation: Case No. 9127

Proposed Order Affirmed June 2009

On November 13, 2007, UniStar Nuclear Energy, LLC and UniStar Nuclear Operating Services, LLC filed a joint application with the Maryland Public Service Commission for a Certificate of Public Convenience and Necessity to construct a new nuclear power plant at Calvert Cliffs in Calvert County. Following a series of public hearings, the Hearing Examiner issued a proposed order to grant the Certificate on April 28, 2009. Two appeals were filed on May 29, 2009, and on June 4, 2009, the co-applicants filed a motion to dismiss the appeals. On June 26, 2009, the Commission dismissed the appeals after finding no basis to grant the interventions and affirmed the proposed order to grant the certificate. The Certificate of Public Convenience and Necessity was granted by final order and the case closed.

MICHIGAN

Every session, the Michigan legislature adopts a package of resolutions that:

- ▶ Memorialize the U.S. Congress to appropriate funds from the Nuclear Waste Fund for the establishment of a permanent repository for high-level nuclear waste or reimburse electric utility customers who paid into the fund.



- ▶ Urge the U.S. Department of Energy and the U.S. Nuclear Regulatory Commission to fulfill their obligation to establish a permanent solution for handling high-level nuclear waste.
- ▶ Urge the President and Congress to explore and support policies that will lead to the establishment of facilities within the U.S. for the reprocessing and recycling of spent nuclear fuel.
- ▶ Memorialize the U.S. Congress to oppose the construction of an underground nuclear waste repository in the Great Lakes basin, and to urge Canadian officials to continue searching for alternative locations to bury nuclear waste that are outside the Great Lakes basin.

Legislation: H.B. 5524

Enacted October 2008

This bill was part of a package of energy bills that enacted regulatory reform, a renewable portfolio standard, renewable tax credits and an energy optimization program. Regulatory reform is addressed in H.B. 5524, including the creation of a certificate of necessity for large capital investments, which will support construction of nuclear plants.

MISSISSIPPI

Legislation: S.B. 2793

Enacted May 2008

This legislation authorizes the Public Service Commission (PSC) to utilize an alternative method of cost recovery for certain base load generation. The PSC is authorized to include in an electric utility's rates certain pre-construction, construction work in progress, operating and other costs incurred in connection with certain new baseload generating facilities, including nuclear.

Key elements:

- ▶ This legislation promotes and fosters the prudent, timely expansion and construction of adequate and appropriate levels of electric generation, through a diversity of fuel sources, including nuclear.
- ▶ The state recognizes it should take advantage of advances in nuclear, coal and other technologies, including technologies that reduce or minimize, or that facilitate the future reduction or minimization of, regulated air emissions.
- ▶ The state recognizes it should take advantage of financial and other incentives afforded and provided by the federal Energy Policy Act of 2005 for the construction of certain electric generating facilities.
- ▶ The PSC is authorized to include in rate base and rates all expenditures determined to be prudently-incurred pre-construction, construction, operating and related costs, including but not limited to all such costs contained in the utility's Construction Work in Progress accounts, whether or not the construc-



tion of any generating facility is ever commenced, completed, or placed into commercial operation.

- ▶ The PSC is authorized to contract for up to \$350,000 for professional audit services associated with a given nuclear generating facility.

NEW JERSEY

Legislation: A.B. 3724/S.B. 2313

Enacted May 2018

Early in Governor Phil Murphy's administration, he signed into law multiple bills creating a comprehensive clean energy program, including legislation establishing a Zero Emissions Certificate program. The legislation allows the Board of Public Utilities to award payments to electricity generators to compensate them for their non-emitting attribute.

NEW MEXICO

Resolution: House Memorial 57, Study Small Modular Reactor in New Mexico

Adopted February 19, 2014

This resolution of the New Mexico House of Representatives directs the state's Department of Energy, Minerals and Natural Resources to include, as part of its development of a state energy plan, an evaluation of the feasibility and economic benefits of constructing and operating a small modular reactor. The resolution also asks that department (1) identify the legal and regulatory requirements of building a small reactor, (2) include in the state energy plan a strategy to attract investment by the nuclear industry supply chain, and (3) report to the legislature by December 2014 its progress on these tasks.

NEW YORK

Cases 15-E-0302 and 16-E-0270

New York Public Service Commission

Adopted August 1, 2016

The New York Public Service Commission approved a Clean Energy Standard designed to enable the state to meet the ambitious environmental goals in the New York State Energy Plan, including a 40-percent reduction in greenhouse gas emissions from 1990 levels by 2030. New York Governor Andrew Cuomo recognized the challenge that New York would face if it were to lose any of its nuclear plants. In his directive to develop a Clean Energy Standard, he said that the closure of nuclear facilities "would eviscerate the emission reductions achieved through the



state's renewable energy programs, diminish fuel diversity, increase price volatility, and financially harm host communities."

Accordingly, New York's Clean Energy Standard explicitly values the nuclear fleet's non-emitting attributes. To preserve a "public necessity," the state requires all New York utilities, the New York Power Authority and Long Island Power Authority to purchase Zero-Emission Credits (ZEC), which compensate New York's upstate nuclear plants for their carbon-free generation. Because the standard bases the value of the ZECs on the "social cost of carbon," this allows nuclear plant operators to plan for long-term operation of their reactors and make investments in their facilities. New York's own analysis projects a more than five-fold economic, environmental and tax return on the ZEC program. In the first two years, the cost of the zero-emission credits is up to \$482 million per year, while the cost of electricity to replace the upstate nuclear plants if they shut down would be \$1.7 billion per year. The program's net benefit to consumers is therefore \$1.2 billion every year.

The standard also requires utilities and energy suppliers to purchase a targeted number of Renewable Energy Credits each year, from renewable developers, to help finance new energy projects. The PSC's order also calls for a New York-certified clean energy product, promotes energy efficiency, advances offshore wind energy, and invests in storage and transmission.

NORTH CAROLINA

Regulation: Docket No. E-7 Sub 819

North Carolina Utilities Commission

Adopted June 2008

The North Carolina Utility Commission (NCUC) has found that the Lee Nuclear Station project should be maintained as an option for meeting future load. The NCUC has approved Duke Energy's decision to incur costs up to \$160 million in 2008 and 2009. These costs will include capital and AFUDC. Specific expenditures incurred will be reviewed later to determine reasonableness and prudence, and the current order does not increase the probability that any specific cost will be allowed.

Duke must file reports twice a year updating progress and spending on the project.

Legislation: S.B. 3

Enacted August 2007

This energy legislation implements several initiatives, including a renewable energy and energy efficiency standard, adjustments to the fuel rider and the review of generating facility construction costs.



This legislation supports the construction of nuclear plants by establishing a utility's ability to have incurred costs reviewed by the North Carolina Utilities Commission (NCUC) periodically and added to the rate base in a general rate case even if that facility is not yet complete. Additionally, the NCUC is given the ability to review and find prudent the activities associated with developing a nuclear plant, but not any specific costs of development.

Key elements:

- ▶ A certificate for construction of a coal or nuclear plant may not be issued unless the NCUC determines that energy efficiency, demand-side management, renewable energy, combined heat and power or any combination of these resources would not establish or maintain a more cost-effective and reliable generation system.
- ▶ Once a certificate is granted, the project cannot be canceled without approval of the NCUC.
- ▶ The utility must submit annual reports during construction. Upon the request of the utility or the commission's own motion, the NCUC may conduct a review of the construction and approve or deny incurred costs and revised cost estimates.
- ▶ Expenditures that have been reviewed and approved by the NCUC during construction can be recovered through rates in a general rate case without further review by the commission. Construction does not have to be complete for approved, incurred costs to be added to the rate base during a general rate case.
- ▶ The costs of a completed facility that has not undergone annual NCUC reviews may be included in rates if the NCUC finds the costs reasonable and prudent.
- ▶ The NCUC can pre-approve costs of constructing a facility located out-of-state that will serve North Carolina customers after an application for a construction certificate has been filed, but not necessarily approved, in the host state. The NCUC has 180 days to issue an order on this type of petition.
- ▶ Like an in-state facility, annual, ongoing reviews of costs and construction of an out-of-state facility by NCUC allows the addition of approved, incurred costs to the rate base during a rate case even if the plant is not complete.
- ▶ If a project is cancelled, a utility has the ability to recover all costs incurred before the cancellation, provided those costs are reviewed and approved by the NCUC either during construction or after the cancellation. This applies to generating projects both in and out of state.
- ▶ The NCUC now has the authority to rule on the prudence of a utility incurring project development costs for a potential new nuclear plant in or out of state without actually ruling on the prudence of specific actions or costs.



NORTH DAKOTA

Legislation: H.B. 1221

Enacted April 12, 2011

North Dakota passed this legislation to allow public utilities to apply for advance determination of prudence for construction of “resource additions” such as renewable energy facilities, transmission facilities, demand response, and energy conversion facilities. Existing North Dakota law (North Dakota Code 49-22-03) defines “energy conversion facility” as any plant designed for or capable of, among other things, generating more than 50 megawatts of electricity or enrichment of uranium minerals.

OHIO

Regulation: Case No. 08-888-EL-ORD

Adopted April 2009

In this finding and order, the Public Utilities Commission of Ohio adopted rules to implement the alternative energy portfolio standard created by Senate Bill 221, passed in 2008. This law requires that 25 percent of the kilowatt-hours sold in 2025 must be from alternate energy sources. Half of this requirement must be met by renewable sources and half may come from advanced energy resources that are defined to include “advanced nuclear energy technology” consisting of Generation III technology as defined by the Nuclear Regulatory Commission; other, later technology; or significant improvements to existing facilities.

Key Elements:

- ▶ The rules specify the annual benchmarks, or incremental percentage requirements, that utilities and service companies must meet to fulfill the renewable portion of the portfolio standard.
- ▶ Renewable Energy Credits (RECs), which represents the environmental attributes associated with the generation of one megawatt-hour of electricity from an eligible renewable energy facility, may be used to satisfy all or part of the renewable energy benchmarks.
- ▶ The rules also require electric utilities to deploy all available cost-effective energy efficiency measures. The Commission-adopted Total Resource Cost Test is used to determine cost-effectiveness. Utilities are required to undertake a review of potential efficiency programs and then propose a portfolio plan for Commission approval. Utilities are required to provide annual status reports to demonstrate compliance.
- ▶ All electric generation facility owners in Ohio are required to report greenhouse gas emissions to the international climate registry. Facility owners must also file an environmental and carbon dioxide control plan with the Commission and the Ohio EPA.



Legislation: S.B. 221

Enacted May 2008

The bill defines “advanced energy projects” to include “advanced nuclear energy production, Generation III technology, or significant improvements to existing (nuclear) facilities.” In addition, the legislation directs the Public Utility Commission of Ohio to adopt rules prescribing “Advanced Energy Portfolio Standards” requiring 25 percent of electricity sourced from alternative energy resources. Half of that requirement may come from advanced energy resources, the other half must come from renewable resources.

Key elements:

- ▶ Requires electric distribution utilities and electric services companies to provide a portion of their electricity supplies from alternative energy resources, ratcheting up over time to 25 percent of kilowatt-hours sold in 2025.
- ▶ Alternative energy resources consist of specified advanced energy resources and renewable energy resources placed in-service January 1, 1998 or later.
- ▶ Advanced energy resources include advanced nuclear energy technology consisting of generation III or later technology, as defined by the Nuclear Regulatory Commission, or significant improvements to existing facilities.
- ▶ Establishes a cost cap on a utility's or company's obligation to comply with a renewable energy resource benchmark.

PENNSYLVANIA

Legislation: S.B. 227/H.B. 576

Enacted January 2017

In response to developments at the federal level, the Pennsylvania Legislature passed S.B. 227/H.B. 576, which urges FERC to implement policies to ensure fuel-secure generation resources like nuclear energy receive proper compensation for the positive attributes they provide nation’s electric system.

In March 2017, the first ever Nuclear Energy Caucus was launched in Pennsylvania. The Pennsylvania Nuclear Energy Caucus is bicameral and bipartisan.

SOUTH CAROLINA

Legislation: R. 45, S. 232

Enacted May 2009

This Act amends several sections of the South Carolina Code including Section 48-52-210, which requires the state to establish a comprehensive energy plan. The new legislation directs that the plan maximize, to the extent practical, environmental quality and energy efficiency while minimizing the cost of energy.



Key elements:

- ▶ The plan must encourage the development and use of clean energy resources, including nuclear energy, energy conservation and efficiency, and indigenous renewable resources.
- ▶ Any future energy strategy that promotes carbon-free, non-greenhouse gas emitting sources must include nuclear energy, renewable resources, and energy conservation and efficiency.
- ▶ The State Energy Office must submit an annual report of its actions to the Governor and key legislative committees.
- ▶ An independent committee annually reviews the state's energy action plan and reports its findings to the General Assembly.

Regulation: Docket No. 2007-440-E

Adopted June 2008

The South Carolina Public Service Commission (PSC) approved Duke Energy's decision to incur pre-construction project development costs for the proposed Lee Nuclear Station. The approved costs include approximately \$70 million through December 31, 2007 and an estimated \$160 million in 2008 and 2009.

This order notwithstanding, specific project development costs may be disputed by any party during ratemaking procedures.

Legislation: H. 3499 and S. 431

Enacted May 2007

This legislation, called the Base Load Review Act, allows the South Carolina Public Service Commission (PSC) to grant a project development order for nuclear projects and a base load review order for any base load facility, including nuclear projects. The base load review application may be combined with an application for certificate of necessity if the proposed plant is located within the state. The base load review application may be for a proposed plant located outside of the state.

Key elements:

- ▶ The term "base load" applies to coal or nuclear generation or any facility 350 MW or larger designed to run with a capacity factor greater than 70 percent.
- ▶ A project development order, applicable only to nuclear plants, allows pre-construction and development costs and an allowance for funds used during construction (AFUDC) associated with those costs to be included in the rate increase when the plant goes into service. If the project is abandoned prudently, these costs will be included in rates during the next rate review.
- ▶ A base load review order constitutes a final and binding determination that a plant is used and useful, and that its capital costs are prudent utility costs that will be properly included in rates so long as the plant is constructed or is being constructed within parameters defined in the order.



- ▶ A utility proposing to build a nuclear plant (no other baseload technology is eligible) may submit a revised rate request with the base load review order or one year after an order is granted, and every year thereafter. A revised rate request would allow the utility building a nuclear plant to collect the carrying cost of construction work in progress (CWIP), which includes both the interest on debt and the return on equity. When the plant goes into service, the final revised rate request will incorporate into rates the ongoing “in-service expenses,” which include operating costs and the revenue requirements related to the utility's cost of capital applied to the investment.
- ▶ Once a base load review order is granted, the utility must file quarterly reports of progress with the Office of Regulatory Staff until the project commences commercial operation.
- ▶ If the PSC fails to rule on a project development application, a base load review application or the subsequent requests for revised rates within the prescribed review times and process set forth in this legislation, approval is considered granted.

TENNESSEE

Legislation: House Joint Resolution 507

Enacted March 23, 2016

This resolution supports the research and development of liquid core molten salt reactors and small modular reactors technologies as a long-term solution to the state's energy needs.

Legislation: Senate Joint Resolution 92

Enacted April 15, 2015

This resolution encourages the Nuclear Regulatory Commission to support the license application of the Tennessee Valley Authority related to the safe operation of Watts Bar Unit 2.

TEXAS

Legislation: H.B. 1386

Enacted May 2007

This bill gives the Public Utility Commission of Texas (PUCT) the authority to regulate decommissioning trust funds for up to six new nuclear power plants under construction before 2015. Nuclear plant owners will pay annually into the decommissioning trust fund. If the owner defaults on payments or if the fund is not large enough to cover decommissioning, the commission may authorize collection of decommissioning funds from retail customers.



Key elements:

- ▶ PUCT sets the amount annually remitted to the decommissioning trust fund by the plant owner.
- ▶ Plant owners must provide financial assurances on funds equal to 16 years of annual payments. PUCT will establish acceptable forms of assurance that will include parent guarantees and support agreements, letters of credit, and surety or insurance.
- ▶ The decommissioning trust fund is administered by the owner of the nuclear power plant according to rules issued by PUCT.
- ▶ PUCT will review the adequacy of the decommissioning trust fund at least once every three years and make adjustments to annual payments.
- ▶ If the owner defaults on trust fund payments and trust funds have been collected directly from retail customers, the defaulting owner or a new owner of the operating plant must repay those funds to retail customers over a period of time determined by PUCT.

Legislation: H.B. 2994

Enacted May 2007

This legislation expands existing legislation that enables local taxing authorities to grant property tax abatements adding new nuclear plants and IGCC facilities as eligible projects.

Key elements:

- ▶ The negotiated tax abatement period can be for up to 10 years.
- ▶ Local taxing authorities may opt to postpone commencement of the tax abatement period on nuclear plants for up to 7 years.

UTAH

Legislation: S.B. 65

Enacted March 26, 2012

The state of Utah adopted this legislation, Alternative Energy Development Tax Incentives, to revise its laws relating to alternative energy tax treatment. The law provides tax incentives for alternative energy development and manufacturing. It also defines "alternative energy" to include nuclear fuel.

Legislation: H.B. 430

Enacted March 2009

Utah passed the Renewable Energy Development Act to provide incentives to develop renewable energy projects, including nuclear energy generation facilities. The purpose of the Act is economic development; it was designed to bring new jobs to Utah and generate new state revenues. The Act enables the crea-



tion of renewable energy development zones and provides for economic development tax credits for business entities that develop qualified facilities within these zones.

Key elements:

- ▶ The definition of “renewable energy” was amended to include “generation powered by nuclear fuel.”
- ▶ The definition of a “renewable energy project” was broadened to include a development opportunity that involves renewable energy generation or manufacturing of equipment used directly in renewable generation or increased efficiency.
- ▶ A prerequisite for the creation of a renewable energy development zone is a commitment by the local government entity to provide incentives that may include an abatement of some or all of a qualified renewable energy project’s property taxes for up to 30 years.
- ▶ In order to qualify, a project is expected to meet any three of the following economic factors: bring new incremental jobs to Utah, involve significant capital investment within the zone, create high-paying jobs, or generate significant purchases from Utah vendors and providers.
- ▶ The Governor’s Office of Economic Development must report annually on the success in attracting projects and creating jobs, the amount of tax credits offered and the time period they are in effect, and the economic impact on the state.

Joint Resolution: S.J.R. 16

Enrolled March 2009

This joint resolution of the Utah Legislature expresses support for new nuclear plant development in Utah. It encourages new nuclear plant development in Utah for its beneficial impacts on the economy, fuel diversification and the environment. The resolution also takes notice of nuclear’s impressive operational safety and security record.

Key elements:

- ▶ Nuclear power has been shown to be a cost effective option.
- ▶ The development of nuclear power plants will provide significant economic benefits to the local, regional and state populations in the form of many high-paying jobs and additional tax revenues.
- ▶ The current practice of storing spent fuel in wet or dry storage containers at a nuclear plant has been proven safe since commercial nuclear power began in 1957.
- ▶ The Legislature of the State of Utah urges that new nuclear power development be pursued inside Utah.
- ▶ The Legislature encourages investor-owner and municipally owned utilities and power marketers and traders to consider participating in a nuclear power project in Utah.



VIRGINIA

Legislation: H.B. 2291

Enacted March 16, 2017

This legislation aids the cost recovery for license renewal and nuclear plant upgrades necessary for operating in the license renewal period, including second license renewal.

Legislation: S.B. 459, An Act to amend and reenact § 56-585.1 of the Code of Virginia, relating to electric utility regulation; recovery of nuclear costs.

Enacted April 3, 2014

This legislation establishes that planning and development for new nuclear generation facilities are in the public interest, and allows nuclear development costs to be included in base rates.

Key elements:

- ▶ Thirty percent of costs incurred by an electric utility between July 1, 2007, and December 31, 2013, in developing a nuclear power facility are recoverable through a rate adjustment clause. The remaining 70 percent shall be recovered through existing base rates as determined by the public service commission (known as the State Corporation Commission, or SCC) in the test periods under review in the utility's next biennial review filed after July 1, 2014.
- ▶ All new nuclear development costs incurred after December 31, 2013, may be deferred for recovery through a rate adjustment clause as may be approved by the SCC.
- ▶ Nuclear refueling operation and maintenance costs may be amortized over the refueling cycle, but in no case for more than 18 months. The legislation requires the SCC to treat the deferred and amortized costs as part of the utility's costs.
- ▶ The legislation states that the planning and development activities for new nuclear generation facilities are in the public interest.

Legislation: SB 1138 / HB 1790, Virginia Nuclear Energy Consortium Authority

Enacted February 23, 2013

The Virginia legislature established the Virginia Nuclear Energy Consortium to make Virginia a national and global leader in nuclear energy, and to serve as an interdisciplinary study, research, and information resource on nuclear energy issues. The legislation makes the consortium a nonprofit corporation with a board of directors and grants it authority to carry out its purposes, which include:

- ▶ entering into agreements with public and private institutions of higher learning to carry out research projects related to nuclear energy



- ▶ cooperating with Virginia's public and private nuclear energy entities to develop nuclear education programs
- ▶ encouraging, facilitating, and supporting the application, commercialization, and transfer of new nuclear energy technologies
- ▶ providing information to the public about nuclear energy and related education and job opportunities
- ▶ assisting institutions of higher learning that provide facilities for nuclear research or graduate education
- ▶ fostering innovative partnerships among Virginia's public colleges and universities, private companies, federal laboratories, and not-for-profit organizations to carry out the consortium's purposes.

Legislation: H.B. 3068/S.B. 1416

Enacted April 2007

Under this legislation, the State Corporation Commission (SCC) in Virginia will once again regulate retail electric sales and the construction of generation. Capped rates, which have been in place since the state was deregulated, ended December 31, 2008, and regulated rates returned to the state, except for large or aggregated customers (5 MW or greater) that can continue to choose competitive supply. The SCC can include performance incentives in general rates and must apply enhanced rates of return to construction of new baseload facilities, specifically nuclear, coal and combined cycle combustion turbines. There is a voluntary renewable portfolio standard that rewards participants for attaining certain percentages of renewable energy, which is calculated excluding nuclear generation.

Key provisions pertinent to future construction of generation:

- ▶ The determined rate of return on common equity shall not be lower than the average rate of return of other investor-owned electric utilities in the southeastern United States and shall not be higher than 300 basis points above such average.
- ▶ The SCC can increase or decrease the determined rate of return by 100 basis points to reward or penalize utility performance.
- ▶ The SCC will conduct biennial reviews of rates.
- ▶ If the SCC finds that a utility's actual return for the previous period was more than 50 basis points above the determined rate of return, the SCC may either direct the excess earnings be returned to customers or 60 percent to customers and 40 percent to the utility as an incentive for continued good performance. If the actual rate of return was more than 50 basis points below the determined rate of return, future rates will be set in such a way to reimburse the utility for lost return. Two consecutive biennial periods exceeding 50 basis points above the determined rate of return can result in a rate reduction.
- ▶ Utilities may apply for recovery of the cost of building new generation before beginning construction. Costs that may be recovered when the facility begins commercial operation include costs associated with planning, development, life-cycle, associated infrastructure, construction and, as an incentive



to undertake such projects, an enhanced rate of return for nuclear, coal and combined cycle generation. During construction, a utility may collect an allowance for funds used during construction and a rate of return, including the enhanced rate of return, on construction work in progress. The enhanced rate of return will be applied to project costs during construction and for an initial portion of the service life of the project. The enhanced return (a supplement to the determined general rate of return) and duration of initial portion of service life shall vary by type of facility accordingly: nuclear, 200 basis points for between 12 and 25 years; coal that is carbon capture compatible, 200 basis points for between 10 and 20 years; conventional coal, 100 basis points for between 10 and 20 years; combined-cycle combustion turbine, 100 basis points for between 10 and 20 years; and renewable facilities, 200 basis points for between 5 and 15 years.

- ▶ The SCC can opt to apply reduced enhanced rates on new generation projects that are not making reasonable progress after 2018 or are initially applied for after 2018.
- ▶ A voluntary renewable portfolio standard would reward participating electric companies that achieve prescribed renewable energy goals with an additional 50 basis points of return on top of the determined rate of return. The goals are 1) 4 percent of electric sales in 2010, 2) an average of 4 percent for 2011-2015 and 7 percent in 2016, and 3) an average of 7 percent in 2017-2021 and 12 percent in 2022. The prescribed percentages of renewable energy are calculated against all 2007 electric energy sales minus that generated by nuclear energy. In other words:

$$\frac{\text{Renewable energy sold}}{\text{(All energy sold in 2007 – Avg. annual energy from nuclear in 2004-2006)}}$$

WASHINGTON

Legislation: S.B. 6002, Operating Budget Enacted April 4, 2014

The legislature of the state of Washington incorporated language authorizing a state nuclear energy task force into its 2014 supplemental operating appropriations budget. The legislation establishes and funds a Joint Select Task Force on Nuclear Energy to study the generation of energy in the region through the use of nuclear power. The legislative language first appeared in an original bill (S.B. 5991) introduced in January 2014 by the chairman of the Washington Senate's Energy, Environment and Telecommunications Committee that contemplated such a task force to study nuclear power as a possible replacement for electricity generated from fossil fuels.

Key elements:

- ▶ The legislation directs the task force to consider the greatest amount of environmental benefit for each dollar spent based on the life-cycle cost of



any nuclear power technology. Life-cycle costs must include the storage and disposal of any nuclear waste.

- ▶ The eight-member legislative task force must report its findings and recommendations to the legislature by December 1, 2014.

WISCONSIN

Legislation: Act 344

Enacted April 2016

In April 2016, Wisconsin repealed its 33-year-old moratorium on new nuclear power plants. Previous law had required that, before issuing a certificate of public convenience and necessity for a new nuclear power plant, the public service commission must find that there is a spent fuel storage facility with capacity for Wisconsin's used nuclear fuel and that certain other economic requirements are met. The new law repeals these conditions.

This new law also changes the policy of the state to include advanced nuclear energy in the state's energy policy. State energy policy requires state agencies and local governments to design new and replacement energy projects in accordance with certain priorities. State and local governments must implement the priorities in designing their energy programs and awarding grants or loans for energy projects, and, with certain exceptions, the public service commission must implement the priorities, to the extent cost-effective, technically feasible, and environmentally sound, in making all energy-related decisions and orders. The new list of priorities is (in order): (1) energy conservation and efficiency; (2) noncombustible renewable energy resources; (3) combustible renewable energy resources; (4) advanced nuclear energy using a reactor design or amended reactor design approved after December 31, 2010, by the U.S. Nuclear Regulatory Commission; and (4) nonrenewable combustible energy resources.

Legislation: Act 7

Enacted May 2005

Wisconsin passed legislation similar to Kansas' SB 104 in May 2005. It allows the Wisconsin Public Service Commission (PSC) to issue an order specifying in advance the rate-making principles that will apply to a new electric generating facility (built or purchased) before construction commences or the purchase contract is closed.

Key elements:

- ▶ There is no restriction on the type or the size of electric generating unit for which rate-making principles can be set in advance.
- ▶ The PSC must decide on an application within 180 days or when the commission takes final action on the application for a certificate for construction, if one has been submitted. (There is no consequence if the PSC does not act in 180 days, however.)



- ▶ The PSC cannot reopen, change, amend or rescind an order specifying in advance ratemaking principles for a specific facility.
- ▶ The PSC may not consider this type of order or the effects of the order in its treatment of the recovery of any other cost of the public utility.

WYOMING

Legislation: H.B. 129

Enacted March 2011

This legislation creates a task force on nuclear energy production to study ways to encourage nuclear power in Wyoming including tax incentives, water rights, public-private partnerships, state laws, storage and reprocessing technologies, and higher education. The law also requires the task force to publish its recommendations.

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