**South Carolina General Assembly**

122nd Session, 2017-2018

**A271, R285, S954**

**STATUS INFORMATION**

Joint Resolution

Sponsors: Senators Leatherman, Setzler, Massey and Fanning

Document Path: l:\s-res\hkl\015blra.kmm.hkl.docx

Introduced in the Senate on January 31, 2018

Introduced in the House on February 21, 2018

Last Amended on June 27, 2018

Passed by the General Assembly on June 27, 2018

Governor's Action: July 2, 2018, Signed

Summary: Public Service Commission

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/31/2018 Senate Introduced and read first time ([Senate Journal‑page 8](file:///h:\sj\20180131.docx))

1/31/2018 Senate Referred to Committee on **Judiciary** ([Senate Journal‑page 8](file:///h:\sj\20180131.docx))

2/6/2018 Senate Referred to Subcommittee: Rankin (ch), Hutto, Massey, McElveen, Sabb, Gambrell, Climer

2/7/2018 Senate Polled out of committee **Judiciary** ([Senate Journal‑page 32](file:///h:\sj\20180207.docx))

2/7/2018 Senate Committee report: Favorable **Judiciary** ([Senate Journal‑page 32](file:///h:\sj\20180207.docx))

2/8/2018 Scrivener's error corrected

2/8/2018 Senate Special order, set for February 8, 2018 ([Senate Journal‑page 16](file:///h:\sj\20180208.docx))

2/8/2018 Senate Roll call Ayes‑38 Nays‑3 ([Senate Journal‑page 16](file:///h:\sj\20180208.docx))

2/13/2018 Senate Debate interrupted ([Senate Journal‑page 21](file:///h:\sj\20180213.docx))

2/14/2018 Senate Amended ([Senate Journal‑page 12](file:///h:\sj\20180214.docx))

2/14/2018 Senate Debate interrupted ([Senate Journal‑page 12](file:///h:\sj\20180214.docx))

2/15/2018 Senate Read second time ([Senate Journal‑page 13](file:///h:\sj\20180215.docx))

2/15/2018 Senate Roll call Ayes‑35 Nays‑0 ([Senate Journal‑page 13](file:///h:\sj\20180215.docx))

2/15/2018 Scrivener's error corrected

2/20/2018 Senate Read third time and sent to House ([Senate Journal‑page 31](file:///h:\sj\20180220.docx))

2/21/2018 House Introduced and read first time ([House Journal‑page 46](file:///h:\hj\20180221.docx))

2/21/2018 House Referred to Committee on **Judiciary** ([House Journal‑page 46](file:///h:\hj\20180221.docx))

3/1/2018 House Committee report: Favorable with amendment **Judiciary** ([House Journal‑page 3](file:///h:\hj\20180301.docx))

3/7/2018 House Amended ([House Journal‑page 20](file:///h:\hj\20180307.docx))

3/7/2018 House Read second time ([House Journal‑page 20](file:///h:\hj\20180307.docx))

3/7/2018 House Roll call Yeas‑107 Nays‑1 ([House Journal‑page 21](file:///h:\hj\20180307.docx))

3/8/2018 House Read third time and returned to Senate with amendments ([House Journal‑page 29](file:///h:\hj\20180308.docx))

3/28/2018 Senate House amendment amended ([Senate Journal‑page 56](file:///h:\sj\20180328.docx))

3/28/2018 Senate Roll call Ayes‑26 Nays‑16 ([Senate Journal‑page 56](file:///h:\sj\20180328.docx))

3/29/2018 Scrivener's error corrected

4/17/2018 Senate Debate interrupted ([Senate Journal‑page 53](file:///h:\sj\20180417.docx))

4/18/2018 Senate House amendment amended ([Senate Journal‑page 36](file:///h:\sj\20180418.docx))

4/18/2018 Senate Returned to House with amendments ([Senate Journal‑page 36](file:///h:\sj\20180418.docx))

4/19/2018 Scrivener's error corrected

4/25/2018 House Non‑concurrence in Senate amendment ([House Journal‑page 76](file:///h:\hj\20180425.docx))

4/25/2018 House Roll call Yeas‑7 Nays‑104 ([House Journal‑page 76](file:///h:\hj\20180425.docx))

4/26/2018 Senate Senate insists upon amendment and conference committee appointed Setzler, Rankin, Massey ([Senate Journal‑page 14](file:///h:\sj\20180426.docx))

4/26/2018 House Conference committee appointed Rutherford, McCoy, Finlay ([House Journal‑page 76](file:///h:\hj\20180426.docx))

6/27/2018 Senate Conference report received and adopted ([Senate Journal‑page 16](file:///h:\sj\20180627.docx))

6/27/2018 Senate Roll call Ayes‑41 Nays‑0 ([Senate Journal‑page 16](file:///h:\sj\20180627.docx))

6/27/2018 House Conference report received and adopted ([House Journal‑page 62](file:///h:\hj\20180627.docx))

6/27/2018 House Roll call Yeas‑115 Nays‑0 ([House Journal‑page 65](file:///h:\hj\20180627.docx))

6/27/2018 House Ordered enrolled for ratification ([House Journal‑page 67](file:///h:\hj\20180627.docx))

6/28/2018 Ratified R 285

7/2/2018 Signed By Governor

7/12/2018 Effective date 07/02/18

10/16/2018 Act No. 271

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**VERSIONS OF THIS BILL**

[1/31/2018](file:///p:\pprever\2017-18\954_20180131.docx)

[2/7/2018](file:///p:\pprever\2017-18\954_20180207.docx)

[2/8/2018](file:///p:\pprever\2017-18\954_20180208.docx)

[2/14/2018](file:///p:\pprever\2017-18\954_20180214.docx)

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[3/1/2018](file:///p:\pprever\2017-18\954_20180301.docx)

[3/7/2018](file:///p:\pprever\2017-18\954_20180307.docx)

[3/28/2018](file:///p:\pprever\2017-18\954_20180328.docx)

[3/29/2018](file:///p:\pprever\2017-18\954_20180329.docx)

[3/29/2018-A](file:///p:\pprever\2017-18\954_20180329A.docx)

[4/18/2018](file:///p:\pprever\2017-18\954_20180418.docx)

[4/19/2018](file:///p:\pprever\2017-18\954_20180419.docx)

[6/27/2018](file:///p:\pprever\2017-18\954_20180627.docx)

(A271, R285, S954)

**A JOINT RESOLUTION TO PROVIDE THAT 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, EXCEPT THAT THE COMMISSION MAY HOLD AN ADMINISTRATIVE OR PROCEDURAL HEARING FOR SUCH A DOCKET PRIOR TO A HEARING ON THE MERITS, AND TO PROVIDE THAT THE 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; TO PROVIDE THAT NO FINAL DETERMINATION OF MATTERS DESCRIBED IN THIS JOINT RESOLUTION, WHETHER BY A FINAL ORDER ISSUED BY THE COMMISSION OR BY OPERATION OF LAW, SHALL OCCUR EARLIER THAN THE TIME PERIOD PRESCRIBED ABOVE, AND TO PROVIDE THAT THE COMMISSION’S FAILURE TO ISSUE A FINAL ORDER PRIOR TO THE TIME PERIOD ESTABLISHED IN THIS JOINT RESOLUTION SHALL NOT CONSTITUTE APPROVAL BY THE COMMISSION, AND A UTILITY MUST NOT PUT INTO EFFECT THE CHANGE IN RATES IT REQUESTED IN ITS SCHEDULE; AND TO SUSPEND PROVISIONS IN TITLE 58 OF THE 1976 CODE 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 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 one hundred percent 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 Reactor 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:

**Hearings prohibited, final order required**

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.

**Final determination, failure to issue order, rates to remain**

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.

**Suspension of laws in conflict**

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.

**Severability**

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.

**Time effective**

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

Ratified the 28th day of June, 2018.

Approved the 2nd day of July, 2018.

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