State Corporation Commission
2023 Fiscal Impact Statement

1. **Bill Number:** SB1075

House of Origin	☐	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☒	Enrolled

2. **Patron:** Ruff

3. **Committee:** Passed both Houses.

4. **Title:** Phase I Utilities; financing for certain deferred fuel costs, biennial reviews, etc.

5. **Summary:** Authorizes Appalachian Power to petition the State Corporation Commission (the Commission) for a financing order for deferred fuel costs. The bill sets forth specific transaction terms and other provisions related to the financing order. Before granting a financing order, the Commission is required to find that (i) the proposed issuance of deferred fuel cost bonds is in the public interest and the associated deferred fuel cost charges are just and reasonable and (ii) the structuring and pricing of the deferred fuel cost bonds are reasonably expected to result in reasonable deferred fuel cost charges consistent with market conditions at the time the deferred fuel cost bonds are priced and the terms set forth in such financing order. The bill requires the financing order to include, among other things: (a) the amount of deferred fuel costs to be financed using deferred fuel cost bonds; (b) a requirement that deferred fuel cost charges authorized under a financing order are non-bypassable and paid by all retail customers of the electric utility, irrespective of the generation supplier of such customer, except for certain exempt customers; (c) a formula-based true-up mechanism for making annual adjustments to the deferred fuel cost charges; and (d) a method of tracing funds collected as deferred fuel cost charges. The bill requires the utility to permit certain retail customers to opt out of financing the customer's pro rata obligation for the deferred fuel cost charges through deferred fuel cost bonds. Under the bill, the financing order is irrevocable.

   The bill creates the deferred fuel cost charge and provides that the revenues generated by this charge, known as deferred fuel cost property, are a property right that can be transferred and pledged as security for the deferred fuel cost bonds. The bill establishes the procedures for creating, perfecting, and enforcing the security interest in deferred fuel cost property. The bill includes a state non-impairment obligation. Under the bill, if the deferred fuel cost bonds are issued, the Commonwealth and its agencies, including the Commission, agree not to take any action that would limit or alter the deferred fuel cost charges until the deferred fuel cost bonds have been paid and performed in full.

   The bill makes various changes to procedures under which the Commission reviews the earnings and sets the rates of Appalachian Power. The bill provides that, in lieu of the triennial review proceedings required under current law, Appalachian Power will be subject to biennial reviews of their rates, terms, and conditions for generation and distribution services, with the first review commencing on March 31, 2024.

The bill requires the Commission, in each biennial review, to conduct a proceeding to review all rates, terms, and conditions for generation and distribution services, with such proceeding utilizing the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted. The bill provides that in each biennial review proceeding, the Commission will set the fair rate of return on common equity applicable to the generation and distribution services of the utility for the two such services combined and for certain approved rate adjustment clauses. The bill provides that the Commission may use any methodology it finds consistent with the public interest to determine Appalachian Power's fair rate of return on common equity. Additionally, the bill provides that the Commission may increase or decrease the combined rate of return for generation and distribution services by up to 50 basis points based on the reliability, generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. The bill requires the Commission, before December 31, 2023, to direct the initiation of a proceeding to review and determine the appropriate protocols and standards applicable to implementing any such performance-based adjustments.

The bill provides that if the Commission determines in its sole discretion that the utility's existing rates for generation and distribution services will, on a going-forward basis, either produce (1) revenues in excess of the utility's authorized rate of return or (2) revenues below the utility's authorized rate of return, then the Commission is required to order any reductions or increases, as applicable and necessary, to such rates for generation and distribution services that it deems appropriate to ensure the resulting rates for generation and distribution services (A) are just and reasonable and (B) provide the utility an opportunity to recover its costs.

The bill provides that, if in any biennial review, the Commission finds that, during the test period under review, the utility has earned more than 100 basis points above the authorized fair combined rate of return on its generation or distribution services, the Commission will direct that 100 percent of the amount of such earnings that were more than 100 basis points above such fair combined rate of return be credited to customers' bills. The bill requires the Commission to authorize deferred recovery for reasonable (I) actual costs associated with severe weather events and (II) actual costs associated with natural disasters, not currently in rates, and provides that the Commission shall allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The bill provides that the Commission is authorized to determine during any biennial review the reasonableness or prudence of any cost subject to the rate review incurred or projected to be incurred by the utility.

The bill removes the requirement for Appalachian Power to file an integrated resource plan with the Commission.

This bill is identical to HB 1777.

6. **Budget Amendment Necessary**: No

7. **Fiscal Impact Estimates:** Final. See Item 8.

8. **Fiscal Implications:** The State Corporation Commission anticipates this bill will result in additional work. However, the State Corporation Commission anticipates that this work can be managed with existing staff and resources.

9. **Specific Agency or Political Subdivisions Affected:** State Corporation Commission

10. **Technical Amendment Necessary:** No

11. **Other Comments:** None