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1 A bill to be entitled
 2 An act relating to the Public Service Commission;
 3 providing an effective date.

4
 5 Be It Enacted by the Legislature of the State of Florida:

6 Section 1. Paragraphs (a) and (c) of subsection (8) of
 7 section 112.324, Florida Statutes, are amended to read:

8 112.324 Procedures on complaints of violations; public
 9 records and meeting exemptions.—

10 (8) If, in cases pertaining to complaints other than
 11 complaints against impeachable officers or members of the
 12 Legislature, upon completion of a full and final investigation
 13 by the commission, the commission finds that there has been a
 14 violation of this part or of s. 8, Art. II of the State
 15 Constitution, it shall be the duty of the commission to report
 16 its findings and recommend appropriate action to the proper
 17 disciplinary official or body as follows, and such official or
 18 body shall have the power to invoke the penalty provisions of
 19 this part, including the power to order the appropriate
 20 elections official to remove a candidate from the ballot for a
 21 violation of s. 112.3145 or s. 8(a) and (i), Art. II of the
 22 State Constitution:

23 (a) The President of the Senate and the Speaker of the
 24 House of Representatives, jointly, in any case concerning the
 25 Public Counsel, members of the Public Service Commission, the
 26 executive director of the Office of Regulatory Staff, members of
 27 the Public Service Commission Nominating Council, the Auditor

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28 General, the director of the Office of Program Policy Analysis
 29 and Government Accountability, or members of the Legislative
 30 Committee on Intergovernmental Relations.

31 (c) The President of the Senate, in any case concerning an
 32 employee of the Senate; the Speaker of the House of
 33 Representatives, in any case concerning an employee of the House
 34 of Representatives; or the President and the Speaker, jointly,
 35 in any case concerning an employee of a committee of the
 36 Legislature whose members are appointed solely by the President
 37 and the Speaker or in any case concerning an employee of the
 38 Public Counsel, Public Service Commission, Office of Regulatory
 39 Staff, Auditor General, Office of Program Policy Analysis and
 40 Government Accountability, or Legislative Committee on
 41 Intergovernmental Relations.

42 Section 2. Subsection (2) of section 119.011, Florida
 43 Statutes, is amended to read:

44 119.011 Definitions.—As used in this chapter, the term:

45 (2) "Agency" means any state, county, district, authority,
 46 or municipal officer, department, division, board, bureau,
 47 commission, or other separate unit of government created or
 48 established by law including, for the purposes of this chapter,
 49 the Commission on Ethics, the Public Service Commission, the
 50 Office of Regulatory Staff, and the Office of Public Counsel,
 51 and any other public or private agency, person, partnership,
 52 corporation, or business entity acting on behalf of any public
 53 agency.

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54 Section 3. Subsection (2) of section 186.801, Florida
 55 Statutes, is amended to read:

56 186.801 Ten-year site plans.—

57 (2) Within 9 months after the receipt of the proposed
 58 plan, the commission shall request assistance from the Office of
 59 Regulatory Staff to make a preliminary study of such plan and
 60 shall classify the plan ~~it~~ as "suitable" or "unsuitable." The
 61 commission may suggest alternatives to the plan. All findings of
 62 the commission shall be made available to the Department of
 63 Environmental Protection for its consideration at any subsequent
 64 electrical power plant site certification proceedings. It is
 65 recognized that 10-year site plans submitted by an electric
 66 utility are tentative information for planning purposes only and
 67 may be amended at any time at the discretion of the utility upon
 68 written notification to the commission. A complete application
 69 for certification of an electrical power plant site under
 70 chapter 403, when such site is not designated in the current 10-
 71 year site plan of the applicant, shall constitute an amendment
 72 to the 10-year site plan. In its preliminary study of each 10-
 73 year site plan, the commission shall consider such plan as a
 74 planning document and shall review:

75 (a) The need, including the need as determined by the
 76 commission, for electrical power in the area to be served.

77 (b) The effect on fuel diversity within the state.

78 (c) The anticipated environmental impact of each proposed
 79 electrical power plant site.

80 (d) Possible alternatives to the proposed plan.

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81 (e) The views of appropriate local, state, and federal
 82 agencies, including the views of the appropriate water
 83 management district as to the availability of water and its
 84 recommendation as to the use by the proposed plant of salt water
 85 or fresh water for cooling purposes.

86 (f) The extent to which the plan is consistent with the
 87 state comprehensive plan.

88 (g) The plan with respect to the information of the state
 89 on energy availability and consumption.

90 Note.—Former ss. 403.505, 23.0191.

91 Section 4. Section 350.001, Florida Statutes, is amended
 92 to read:

93 350.001 Legislative intent.—

94 (1) The Florida Public Service Commission has been and
 95 shall continue to be an arm of the legislative branch of
 96 government. In the exercise of its jurisdiction, the commission
 97 shall neither establish nor implement any regulatory policy that
 98 is contrary to, or is an expansion of, the authority granted to
 99 it by the Legislature.

100 (2) The Public Service Commission and its staff shall
 101 perform their ~~its~~ duties independently, impartially,
 102 professionally, honorably, and without undue influence from any
 103 person.

104 (3) It is the desire of the Legislature that the Governor
 105 participate in the appointment process of commissioners to the
 106 Public Service Commission. The Legislature accordingly delegates
 107 to the Governor a limited authority with respect to the Public

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108 Service Commission by authorizing him or her to participate in
 109 the selection of members only in the manner prescribed by s.
 110 350.031.

111 Section 5. Subsections (1) and (2) of section 350.01,
 112 Florida Statutes, are amended to read:

113 350.01 Florida Public Service Commission; terms of
 114 commissioners; vacancies; election and duties of chair; quorum;
 115 proceedings.—

116 (1) The Florida Public Service Commission shall consist of
 117 five commissioners appointed pursuant to this chapter s.
 118 ~~350.031~~.

119 (2) (a) Each commissioner serving on July 1, 2010 ~~1978~~,
 120 shall ~~be permitted to~~ remain in office until the completion of
 121 his or her current term. Upon the expiration of the term, a
 122 successor shall be appointed in the manner prescribed by this
 123 chapter s. 350.031 for a 6-year ~~4-year~~ term, except that the
 124 terms of the initial members appointed under this act shall be
 125 as follows:

126 1. The vacancies ~~vacancy~~ created by the present terms ~~term~~
 127 ending in January 2011, ~~1981~~, shall be filled by appointment for
 128 a 3-year term and a 4-year term, respectively, and for 6-year ~~4-~~
 129 ~~year~~ terms thereafter; and

130 2. The vacancy ~~vacancies~~ created by the ~~two~~ present term
 131 ~~terms~~ ending in January 2013, ~~1979~~, shall be filled by
 132 appointment for a 3-year term and for 6-year ~~4-year~~ terms
 133 thereafter; and.

134 3. The vacancies created by the present terms ending in

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135 January 2014 shall be filled by appointment for a 3-year term
 136 and a 4-year term, respectively, and for 6-year terms
 137 thereafter.

138
 139 When filling the vacancies created by the present terms ending
 140 in January 2011, pursuant to subparagraph 1., the appointing
 141 authority shall have the discretion to determine which vacancy
 142 will be filled by appointment for a 3-year term and which
 143 vacancy will be filled by appointment for a 4-year term. When
 144 filling the vacancies created by the present terms ending in
 145 January 2014, pursuant to subparagraph 3., the appointing
 146 authority shall have the discretion to determine which vacancy
 147 will be filled by appointment for a 3-year term and which
 148 vacancy will be filled by appointment for a 4-year term.

149 (b) Each term shall begin on January 2 of the year the
 150 term commences and shall end on January 1 of the year the term
 151 concludes. ~~Two additional commissioners shall be appointed in~~
 152 ~~the manner prescribed by s. 350.031 for 4-year terms beginning~~
 153 ~~the first Tuesday after the first Monday in January, 1979, and~~
 154 ~~successors shall be appointed for 4-year terms thereafter with~~
 155 ~~each term beginning on January 2 of the year the term commences~~
 156 ~~and ending 4 years later on January 1.~~

157 (c) Vacancies on the commission shall be filled for the
 158 unexpired portion of the term in the same manner as original
 159 appointments to the commission.

160 (d) Each commissioner appointed to a 6-year term or
 161 appointed to fill a vacancy to complete the unexpired portion of

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162 a 6-year term with more than 4 years of the term remaining,
 163 shall be subject to reconfirmation by the Legislature during the
 164 regular session immediately following the completion of one-half
 165 of the commissioner's term.

166 Section 6. Section 350.011, Florida Statutes, is amended
 167 to read:

168 350.011 Florida Public Service Commission; jurisdiction;
 169 powers and duties.—

170 (1) The state regulatory agency heretofore known as the
 171 Florida Railroad and Public Utilities Commission or Florida
 172 Public Utilities Commission shall be known and hereafter called
 173 Florida Public Service Commission, and all rights, powers,
 174 duties, responsibilities, jurisdiction, and judicial powers now
 175 vested in said Railroad and Public Utilities Commission or said
 176 Florida Public Utilities Commission and the commissioners
 177 thereof are vested in the Florida Public Service Commission and
 178 the commissioners thereof.

179 (2) The commissioners of the Florida Public Service
 180 Commission shall not supervise, direct, or control any person
 181 whose services are employed by the Office of Regulatory Staff
 182 created pursuant to s. 350.071.

183 (3) Notwithstanding any other provision of law, the
 184 commission shall not inspect, audit, or examine any entity
 185 subject to the jurisdiction of the commission pursuant to any
 186 provision of law, as these functions are the sole responsibility
 187 of the Office of Regulatory Staff.

188 (4) The commission staff shall not appear as a party in

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189 commission proceedings and shall not offer testimony on issues
 190 before the commission. The commission staff shall not conduct
 191 discovery, either informally or pursuant to the Florida Rules of
 192 Civil Procedure, in any proposed agency action proceeding or any
 193 proceeding under s. 120.569 or s. 120.57 in which the
 194 substantial interests of a party are determined by the
 195 commission.

196 Section 7. Subsections (1) and (2) of section 350.012,
 197 Florida Statutes, are amended to read:

198 350.012 Committee on Public Service Commission ~~Counsel~~
 199 Oversight; creation; membership; powers and duties.-

200 (1) There is created a standing joint committee of the
 201 Legislature, designated the Committee on Public Service
 202 Commission ~~Counsel~~ Oversight, and composed of 12 members
 203 appointed as follows: six members of the Senate appointed by the
 204 President of the Senate, two of whom must be members of the
 205 minority party; and six members of the House of Representatives
 206 appointed by the Speaker of the House of Representatives, two of
 207 whom must be members of the minority party. The terms of members
 208 shall be for 2 years and shall run from the organization of one
 209 Legislature to the organization of the next Legislature. The
 210 President shall appoint the chair of the committee in even-
 211 numbered years and the vice chair in odd-numbered years, and the
 212 Speaker of the House of Representatives shall appoint the chair
 213 of the committee in odd-numbered years and the vice chair in
 214 even-numbered years, from among the committee membership.
 215 Vacancies shall be filled in the same manner as the original

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216 | appointment. Members shall serve without additional
 217 | compensation, but shall be reimbursed for expenses.

218 | (2) The committee shall:

219 | (a) Appoint an executive director of the Office of
 220 | Regulatory Staff, subject to confirmation by the Legislature, as
 221 | provided by general law;

222 | (b) Appoint ~~appoint~~ a Public Counsel as provided by
 223 | general law; and

224 | (c) Perform such other duties as required by general law.

225 | Section 8. Subsections (1) and (5) of section 350.031,
 226 | Florida Statutes, are amended to read:

227 | 350.031 Florida Public Service Commission Nominating
 228 | Council.—

229 | (1) (a) There is created a Florida Public Service
 230 | Commission Nominating Council consisting of 12 members. At least
 231 | one member of the council must be 60 years of age or older. Six
 232 | members, including three members of the House of
 233 | Representatives, one of whom shall be a member of the minority
 234 | party, shall be appointed by and serve at the pleasure of the
 235 | Speaker of the House of Representatives. Six members, including
 236 | three members of the Senate, one of whom shall be a member of
 237 | the minority party, shall be appointed by and serve at the
 238 | pleasure of the President of the Senate.

239 | (b) All terms shall be for 4 years except those members of
 240 | the House and Senate, who shall serve 2-year terms concurrent
 241 | with the 2-year elected terms of House members. ~~All terms of the~~
 242 | ~~members of the Public Service Commission Nominating Council~~

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243 ~~existing on June 30, 2008, shall terminate upon the effective~~
 244 ~~date of this act; however, such members may serve an additional~~
 245 ~~term if reappointed by the Speaker of the House of~~
 246 ~~Representatives or the President of the Senate.~~ To establish
 247 staggered terms, appointments of members shall be made for
 248 initial terms to begin on July 1, 2008, with each appointing
 249 officer to appoint three legislator members, one of whom shall
 250 be a member of the minority party, to terms through the
 251 remainder of the 2-year elected terms of House members; one
 252 nonlegislator member to a 6-month term; one nonlegislator member
 253 to an 18-month term; and one nonlegislator member to a 42-month
 254 term. Thereafter, the terms of the nonlegislator members of the
 255 Public Service Commission Nominating Council shall begin on
 256 January 2 of the year the term commences and end 4 years later
 257 on January 1.

258 (c) The President of the Senate shall appoint the chair of
 259 the council in even-numbered years and the vice chair in odd-
 260 numbered years, and the Speaker of the House of Representatives
 261 shall appoint the chair of the council in odd-numbered years and
 262 the vice chair in even-numbered years, from among the council
 263 membership.

264 (d) Vacancies on the council shall be filled for the
 265 unexpired portion of the term in the same manner as original
 266 appointments to the council. A member may not be reappointed to
 267 the council, except for a member of the House of Representatives
 268 or the Senate who may be appointed to two 2-year terms, ~~members~~
 269 ~~who are reappointed pursuant to paragraph (b),~~ or a person who

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270 is appointed to fill the remaining portion of an unexpired term.

271 (5) A person may not be nominated ~~to the Governor~~ for
 272 appointment to the Public Service Commission until the council
 273 has determined that the person satisfies the qualifications set
 274 forth in s. 350.04(2) ~~is competent and knowledgeable in one or~~
 275 ~~more fields, which shall include, but not be limited to: public~~
 276 ~~affairs, law, economics, accounting, engineering, finance,~~
 277 ~~natural resource conservation, energy, or another field~~
 278 ~~substantially related to the duties and functions of the~~
 279 ~~commission.~~ The commission shall fairly represent the ~~above-~~
 280 ~~stated~~ fields identified in s. 350.04(2). Recommendations of the
 281 council shall be nonpartisan.

282 Section 9. Section 350.035, Florida Statutes, is created
 283 to read:

284 350.035 Prohibited influence on commissioners.-
 285 Neither the Governor, the President of the Senate, the Speaker
 286 of the House of Representatives, any member of the Committee on
 287 Public Service Commission Oversight, nor any member of the
 288 Public Service Commission Nominating Council shall attempt to
 289 sway the independent judgment of the commission by bringing
 290 pressure to bear upon a commissioner or commission employee
 291 through that person's role in the nomination, appointment, or
 292 reconfirmation of commissioners. It is the duty of the
 293 Commission on Ethics to receive and investigate sworn complaints
 294 of violations of this section pursuant to the procedures
 295 contained in ss. 112.322-112.3241.

296 Section 10. Section 350.04, Florida Statutes, is amended

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297 to read:

298 350.04 Qualifications of commissioners; training and
 299 continuing education.—

300 (1) A commissioner may not, at the time of appointment or
 301 during his or her term of office:

302 (a) ~~(1)~~ Have any financial interest, other than ownership
 303 of shares in a mutual fund, in any business entity which, either
 304 directly or indirectly, owns or controls any public utility
 305 regulated by the commission, in any public utility regulated by
 306 the commission, or in any business entity which, either directly
 307 or indirectly, is an affiliate or subsidiary of any public
 308 utility regulated by the commission.

309 (b) ~~(2)~~ Be employed by or engaged in any business activity
 310 with any business entity which, either directly or indirectly,
 311 owns or controls any public utility regulated by the commission,
 312 by any public utility regulated by the commission, or by any
 313 business entity which, either directly or indirectly, is an
 314 affiliate or subsidiary of any public utility regulated by the
 315 commission.

316 (2) Each person recommended for appointment to the Public
 317 Service Commission by the Public Service Commission Nominating
 318 Council must:

319 (a) Have earned a baccalaureate or more advanced degree
 320 from an institution of higher learning accredited by a regional
 321 or national accrediting body; and

322 (b) Possess a minimum of 10 years of professional
 323 experience, or a minimum of 6 years of professional experience

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324 if the person has earned an advanced degree, in one or more of
 325 the following:

- 326 1. Energy or electric industry issues;
- 327 2. Telecommunications issues;
- 328 3. Water and sewer industry issues;
- 329 4. Finance;
- 330 5. Economics;
- 331 6. Accounting;
- 332 7. Engineering; or
- 333 8. Law.

334 (3) Before voting on any matter before the Public Service
 335 Commission, each person appointed to the commission after July
 336 1, 2010, shall complete a comprehensive course of study,
 337 developed by the executive director and general counsel of the
 338 Office of Regulatory Staff and approved by the Committee on
 339 Public Service Commission Oversight, that addresses the
 340 substantive matters within the jurisdiction of the commission,
 341 administrative law applicable to commission proceedings, and
 342 standards of conduct applicable to commissioners. Thereafter,
 343 each commissioner must complete annually no less than 10 hours
 344 of continuing professional education directly related to
 345 substantive matters within the jurisdiction of the commission.

346 (4) No less than once every 12 months, each commissioner,
 347 commission employee, and staff of the Office of Regulatory Staff
 348 shall receive training, in a form developed by the executive
 349 director and general counsel of the Office of Regulatory Staff,
 350 that addresses the standards of conduct applicable to

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351 commissioners, their staff, and staff of the Office of
 352 Regulatory Staff.

353 (5) The executive director of the Office of Regulatory
 354 Staff shall certify the office’s compliance with the training
 355 requirements imposed by this section, the chair of the Public
 356 Service Commission shall certify the commission’s compliance
 357 with these requirements, and each commissioner shall certify his
 358 or her individual compliance with the continuing professional
 359 education requirements of subsection (3). Each certification of
 360 compliance shall be provided to the Committee on Public Service
 361 Commission Oversight.

362 Section 11. Section 350.041, Florida Statutes, is amended
 363 to read:

364 350.041 Commissioners; standards of conduct.—

365 (1) STATEMENT OF INTENT.—

366 (a) Professional, impartial, and honorable commissioners
 367 are indispensable to the effective performance of the
 368 commission’s duties. A commissioner shall maintain high
 369 standards of conduct and shall personally observe those
 370 standards so that the integrity and impartiality of the
 371 commission may be preserved. The standards of conduct provided
 372 in this section should be construed and applied to further that
 373 objective.

374 (b) In addition to the provisions of part III of chapter
 375 112, which are applicable to public service commissioners by
 376 virtue of their being public officers and full-time employees of
 377 the legislative branch of government, the conduct of public

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378 service commissioners shall be governed by the standards of
 379 conduct provided in this section. Nothing shall prohibit the
 380 standards of conduct from being more restrictive than part III
 381 of chapter 112. Further, this section shall not be construed to
 382 contravene the restrictions of part III of chapter 112. In the
 383 event of a conflict between this section and part III of chapter
 384 112, the more restrictive provision shall apply.

385 (2) STANDARDS OF CONDUCT.—

386 (a) A commissioner may not accept anything from any
 387 business entity which, either directly or indirectly, owns or
 388 controls any public utility regulated by the commission, from
 389 any public utility regulated by the commission, or from any
 390 business entity which, either directly or indirectly, is an
 391 affiliate or subsidiary of any public utility regulated by the
 392 commission. A commissioner may attend conferences and associated
 393 meals and events that are generally available to all conference
 394 participants without payment of any fees in addition to the
 395 conference fee. Additionally, while attending a conference, a
 396 commissioner may attend meetings, meals, or events that are not
 397 sponsored, in whole or in part, by any representative of any
 398 public utility regulated by the commission and that are limited
 399 to commissioners only, committee members, or speakers if the
 400 commissioner is a member of a committee of the association of
 401 regulatory agencies that organized the conference or is a
 402 speaker at the conference. It is not a violation of this
 403 paragraph for a commissioner to attend a conference for which
 404 conference participants who are employed by a utility regulated

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405 | by the commission have paid a higher conference registration fee
 406 | than the commissioner, or to attend a meal or event that is
 407 | generally available to all conference participants without
 408 | payment of any fees in addition to the conference fee and that
 409 | is sponsored, in whole or in part, by a utility regulated by the
 410 | commission. If, during the course of an investigation by the
 411 | Commission on Ethics into an alleged violation of this
 412 | paragraph, allegations are made as to the identity of the person
 413 | giving or providing the prohibited gift, that person must be
 414 | given notice and an opportunity to participate in the
 415 | investigation and relevant proceedings to present a defense. If
 416 | the Commission on Ethics determines that the person gave or
 417 | provided a prohibited gift, the person may not appear before the
 418 | commission or otherwise represent anyone before the commission
 419 | for a period of 2 years.

420 | (b) A commissioner may not accept any form of employment
 421 | with or engage in any business activity with any business entity
 422 | which, either directly or indirectly, owns or controls any
 423 | public utility regulated by the commission, any public utility
 424 | regulated by the commission, or any business entity which,
 425 | either directly or indirectly, is an affiliate or subsidiary of
 426 | any public utility regulated by the commission.

427 | (c) A commissioner may not have any financial interest,
 428 | other than shares in a mutual fund, in any public utility
 429 | regulated by the commission, in any business entity which,
 430 | either directly or indirectly, owns or controls any public
 431 | utility regulated by the commission, or in any business entity

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432 | which, either directly or indirectly, is an affiliate or
 433 | subsidiary of any public utility regulated by the commission. If
 434 | a commissioner acquires any financial interest prohibited by
 435 | this section during his or her term of office as a result of
 436 | events or actions beyond the commissioner's control, he or she
 437 | shall immediately sell such financial interest or place such
 438 | financial interest in a blind trust at a financial institution.
 439 | A commissioner may not attempt to influence, or exercise any
 440 | control over, decisions regarding the blind trust.

441 | (d) A commissioner may not accept anything from a party in
 442 | a proceeding currently pending before the commission. If, during
 443 | the course of an investigation by the Commission on Ethics into
 444 | an alleged violation of this paragraph, allegations are made as
 445 | to the identity of the person giving or providing the prohibited
 446 | gift, that person must be given notice and an opportunity to
 447 | participate in the investigation and relevant proceedings to
 448 | present a defense. If the Commission on Ethics determines that
 449 | the person gave or provided a prohibited gift, the person may
 450 | not appear before the commission or otherwise represent anyone
 451 | before the commission for a period of 2 years.

452 | (e) A commissioner may not serve as the representative of
 453 | any political party or on any executive committee or other
 454 | governing body of a political party; serve as an executive
 455 | officer or employee of any political party, committee,
 456 | organization, or association; receive remuneration for
 457 | activities on behalf of any candidate for public office; engage
 458 | on behalf of any candidate for public office in the solicitation

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459 of votes or other activities on behalf of such candidacy; or
 460 become a candidate for election to any public office without
 461 first resigning from office.

462 (f) A commissioner, during his or her term of office, may
 463 not make any public comment regarding the merits of any
 464 proceeding under ss. 120.569 and 120.57 currently pending before
 465 the commission.

466 (g) A commissioner may not conduct himself or herself in
 467 an unprofessional manner at any time during the performance of
 468 his or her official duties.

469 (h) The chair shall require order and decorum in
 470 proceedings before the commission. In the absence of the chair,
 471 the commissioner presiding over a commission proceeding shall
 472 require order and decorum in the proceeding.

473 (i) A commissioner shall be patient, dignified, and
 474 courteous to litigants, other commissioners, witnesses, lawyers,
 475 commission staff, staff of the Office of Regulatory Staff, and
 476 others with whom the commissioner deals in an official capacity.

477 (j) A commissioner shall perform his or her official
 478 duties without bias or prejudice. A commissioner shall not, in
 479 the performance of his or her official duties, by words or
 480 conduct manifest bias or prejudice.

481 (k) A commissioner shall not, with respect to parties or
 482 classes of parties, cases, controversies, or issues likely to
 483 come before the commission, make pledges, promises, or
 484 commitments that are inconsistent with the impartial performance
 485 of the commissioner's official duties.

486 (1) A commissioner shall not be swayed by partisan
 487 interests, public clamor, or fear of criticism.

488 (m)~~(h)~~ A commissioner must avoid impropriety in all of his
 489 or her activities and must act at all times in a manner that
 490 promotes public confidence in the integrity and impartiality of
 491 the commission.

492 (n)~~(i)~~ A commissioner may not directly or indirectly,
 493 through staff or other means, solicit anything of value from any
 494 public utility regulated by the commission, or from any business
 495 entity that, whether directly or indirectly, is an affiliate or
 496 subsidiary of any public utility regulated by the commission, or
 497 from any party appearing in a proceeding considered by the
 498 commission in the last 2 years.

499 (3) (a) The Commission on Ethics shall accept and
 500 investigate any alleged violations of this section pursuant to
 501 the procedures contained in ss. 112.322-112.3241.

502 (b) The Commission on Ethics shall provide the Governor
 503 and the Florida Public Service Commission Nominating Council
 504 with a report of its findings and recommendations with respect
 505 to alleged violations by a public service commissioner. The
 506 Governor is authorized to enforce these ~~the~~ findings and
 507 recommendations ~~of the Commission on Ethics~~, pursuant to part
 508 III of chapter 112.

509 (c) The Commission on Ethics shall provide the
 510 disciplinary officials or bodies specified in part III of
 511 chapter 112 with a report of its findings and recommendations
 512 with respect to alleged violations of the specific provisions of

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513 this section that, pursuant to s. 350.073, are applicable to the
 514 executive director of the Office of Regulatory Staff.

515 (d) A public service commissioner, a commission employee,
 516 the executive director of the Office of Regulatory Staff, or a
 517 member of the Florida Public Service Commission Nominating
 518 Council may request an advisory opinion from the Commission on
 519 Ethics, pursuant to s. 112.322(3)(a), regarding the standards of
 520 conduct or prohibitions set forth in this section and ss.
 521 350.031, 350.04, and 350.042.

522 Section 12. Section 350.042, Florida Statutes, is amended
 523 to read:

524 350.042 Ex parte communications.—

525 (1) Each A commissioner and employee of the commission
 526 shall ~~should~~ accord to every person who is a party to or is
 527 registered with the commission as an interested person in a
 528 proposed agency action proceeding, or who is a party to a
 529 proceeding under s. 120.565, s. 120.569, or s. 120.57, legally
 530 interested in a proceeding, or the person's lawyer, full right
 531 to be heard according to law, and, except as authorized by law,
 532 shall ~~not~~ ~~neither~~ initiate, solicit, or ~~not~~ consider ex parte
 533 communications concerning the merits, threat, or offer of reward
 534 in any a pending proposed agency action proceeding or a
 535 proceeding under s. 120.565, s. 120.569, or s. 120.57 other than
 536 a proceeding under s. 120.54 or s. 120.565, workshops, or
 537 internal affairs meetings. No individual shall discuss ex parte
 538 with a commissioner the merits of any issue that he or she knows
 539 will be filed with the commission within 180 ~~90~~ days. The

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540 ~~provisions of this subsection shall not apply to commission~~
 541 ~~staff.~~

542 (a) For purposes of this section, an "ex parte
 543 communication" is any communication that, if written or in
 544 electronic format, is not served on all parties to a proceeding,
 545 and, if oral, is made without adequate notice to the parties and
 546 without an opportunity for the parties to be present and heard.

547 (b) Where circumstances require, ex parte communications
 548 concerning scheduling, administrative purposes, or emergencies
 549 that do not deal with substantive matters or issues on the
 550 merits are authorized, provided:

551 1. The commissioner or commission employee reasonably
 552 believes that no party will gain a procedural or tactical
 553 advantage as a result of the ex parte communication; and

554 2. The commissioner or commission employee makes provision
 555 promptly to notify all parties of the substance of the ex parte
 556 communication and, where possible, allows an opportunity to
 557 respond.

558 (2) The provisions of this section shall not prohibit an
 559 individual residential ratepayer from communicating with a
 560 commissioner or commission employee, provided that the ratepayer
 561 is representing only himself or herself, without compensation.

562 (3) This section shall not apply to oral communications or
 563 discussions in scheduled and noticed open public meetings of
 564 educational programs or of a conference or other meeting of an
 565 association of regulatory agencies.

566 (4) If a commissioner or commission employee knowingly

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567 receives an ex parte communication prohibited by this section
 568 ~~relative to a proceeding other than as set forth in subsection~~
 569 ~~(1)~~, to which he or she is assigned, he or she must place on the
 570 record of the proceeding copies of all written communications
 571 received, all written responses to the communications, and a
 572 memorandum stating the substance of all oral communications
 573 received and all oral responses made, and shall give written
 574 notice to all parties to the communication that such matters
 575 have been placed on the record. Any party to the proceeding who
 576 desires to respond to the ~~an ex parte~~ communication may do so.
 577 The response must be received by the commission within 10 days
 578 after receiving notice that the ~~ex parte~~ communication has been
 579 placed on the record. The commissioner may, if he or she deems
 580 it necessary to eliminate the effect of an ex parte
 581 communication received by him or her, withdraw from the
 582 proceeding, in which case the chair shall substitute another
 583 commissioner for the proceeding.

584 (5) Any individual who makes an ex parte communication
 585 prohibited by this section shall submit to the commission a
 586 written statement describing the nature of such communication,
 587 to include the name of the person making the communication, the
 588 name of each ~~the~~ commissioner or commission employee
 589 ~~commissioners~~ receiving the communication, copies of all written
 590 communications made, all written responses to such
 591 communications, and a memorandum stating the substance of all
 592 oral communications received and all oral responses made. The
 593 commission shall place on the record of a proceeding all such

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594 communications.

595 (6) Any commissioner or commission employee who knowingly
 596 fails to place on the record any ex parte ~~such~~ communications
 597 prohibited by this section, in violation of this ~~the~~ section,
 598 within 15 days after ~~of~~ the date of the ~~such~~ communication is
 599 subject to removal or dismissal and may be assessed a civil
 600 penalty not to exceed \$5,000. Any individual who knowingly fails
 601 to comply with subsection (5) may be assessed a civil penalty
 602 not to exceed \$5,000.

603 (7) (a) It is ~~shall be~~ the duty of the Commission on Ethics
 604 to receive and investigate sworn complaints of violations of
 605 this section pursuant to the procedures contained in ss.
 606 112.322-112.3241.

607 (b) If the Commission on Ethics finds that there has been
 608 a violation of this section by a public service commissioner or
 609 commission employee, it shall provide the Governor and the
 610 Florida Public Service Commission Nominating Council with a
 611 report of its findings and recommendations. The Governor is
 612 authorized to enforce the findings and recommendations of the
 613 Commission on Ethics, pursuant to part III of chapter 112.

614 (c) If a commissioner, commission employee, or other
 615 individual fails or refuses to pay the Commission on Ethics any
 616 civil penalties assessed pursuant to ~~the provisions of~~ this
 617 section, the Commission on Ethics may bring an action in any
 618 circuit court to enforce the ~~such~~ penalty.

619 (d) If, during the course of an investigation by the
 620 Commission on Ethics into an alleged violation of this section,

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621 | allegations are made as to the identity of the person who
 622 | participated in the ex parte communication, that person must be
 623 | given notice and an opportunity to participate in the
 624 | investigation and relevant proceedings to present a defense. If
 625 | the Commission on Ethics determines that the person participated
 626 | in the ex parte communication, the person may not appear before
 627 | the commission or otherwise represent anyone before the
 628 | commission for a period of 2 years.

629 | Section 13. Subsections (1), (2), and (3) of section
 630 | 350.06, Florida Statutes, are amended to read:

631 | 350.06 Place of meeting; expenditures; employment of
 632 | personnel; records availability and fees.—

633 | (1) The offices of the ~~said commissioners~~ shall be in the
 634 | vicinity of Tallahassee, but the commissioners may hold sessions
 635 | anywhere in the state at their discretion.

636 | (2) All sums of money authorized to be paid on account of
 637 | the ~~said commissioners~~ shall be paid out of the State Treasury
 638 | only on the order of the Chief Financial Officer.

639 | (3) The ~~commissioners~~ may employ clerical, technical, and
 640 | professional personnel reasonably necessary for the performance
 641 | of its ~~their~~ duties, except for those responsibilities and
 642 | functions reserved to the Office of Regulatory Staff, and may
 643 | also employ one or more persons capable of stenographic court
 644 | reporting, to be known as the official reporters of the
 645 | commission.

646 | Section 14. Section 350.0605, Florida Statutes, is amended
 647 | to read:

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648 350.0605 Former commissioners; executive directors; and
 649 employees of the commission or Office of Regulatory Staff;
 650 representation of clients before commission.—

651 (1) Any former commissioner of the Public Service
 652 Commission or former executive director of the Office of
 653 Regulatory Staff is prohibited from appearing before the
 654 commission representing any client or any industry regulated by
 655 the Public Service Commission for a period of 2 years following
 656 termination of service as a commissioner or executive director
 657 ~~on the commission.~~

658 (2) Any former employee of the commission or the Office of
 659 Regulatory Staff is prohibited from appearing before the
 660 commission representing any client regulated by the Public
 661 Service Commission on any matter which was pending at the time
 662 of termination and in which such former employee had
 663 participated.

664 (3) For a period of 2 years following termination of
 665 service as a commissioner or executive director ~~on the~~
 666 ~~commission,~~ a former commissioner of the Public Service
 667 Commission or former executive director of the Office of
 668 Regulatory Staff ~~member~~ may not accept employment by or
 669 compensation from a business entity which, directly or
 670 indirectly, owns or controls a public utility regulated by the
 671 commission, from a public utility regulated by the commission,
 672 from a business entity which, directly or indirectly, is an
 673 affiliate or subsidiary of a public utility regulated by the
 674 commission or is an actual business competitor of a local

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675 exchange company or public utility regulated by the commission
 676 and is otherwise exempt from regulation by the commission under
 677 ss. 364.02(14) and 366.02(1), or from a business entity or trade
 678 association that has been a party to a commission proceeding
 679 within the 2 years preceding the member's termination of service
 680 on the commission. This subsection applies only to members of
 681 the Florida Public Service Commission who are appointed or
 682 reappointed after May 10, 1993.

683 Section 15. Section 350.071, Florida Statutes, is created
 684 to read:

685 350.071 Office of Regulatory Staff; creation; purpose;
 686 party status.—

687 (1) The Office of Regulatory Staff is hereby created
 688 within the legislative branch of government within the intent
 689 expressed in chapter 216. The office shall perform its duties
 690 independently.

691 (2) The office shall be considered a party of record in
 692 all proceedings before the Public Service Commission, but the
 693 office may choose not to participate in a proceeding if the
 694 executive director determines that the public interest will not
 695 be adversely affected as a result. All tariffs, initial
 696 pleadings, complaints, and notices of appeal filed with the
 697 commission shall be served upon the office. The commission shall
 698 notify the office of the initiation of any rulemaking
 699 proceeding, workshop, or any other proceeding that the
 700 commission is authorized by law to initiate.

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701 (3) The office shall represent the public interest of
 702 Florida. For purposes of ss. 350.071 through 350.075, "public
 703 interest" means a balancing of the following:

704 (a) Concerns of the using and consuming public, regardless
 705 of customer class, with respect to services provided by any
 706 company subject to the jurisdiction of the commission pursuant
 707 to any provision of law;

708 (b) Preservation of the financial integrity of the state's
 709 regulated public utilities and continued investment in and
 710 maintenance of facilities in order to provide reliable and
 711 affordable utility services; and

712 (c) Promotion of fair competition in telecommunications
 713 markets.

714 (4) The Office of Regulatory Staff shall be subject to the
 715 same provisions governing ex parte communications that apply to
 716 any other party to a commission proceeding. Any recommendation
 717 of the Office of Regulatory Staff shall be provided to the
 718 commission in a form, forum, and manner as may lawfully be
 719 provided by any other party.

720 Section 16. Section 350.072, Florida Statutes, is created
 721 to read:

722 350.072 Office of Regulatory Staff; employees;
 723 supervision; budget; location; procedures governing
 724 administration and operations.—

725 (1) The Office of Regulatory Staff shall consist of the
 726 executive director and any clerical, technical, and professional
 727 personnel that the executive director deems to be reasonably

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728 necessary for the performance of the duties of the office. The
 729 executive director is authorized to employ expert witnesses and
 730 other professional expertise that the executive director deems
 731 to be reasonably necessary to assist the office in the
 732 performance of its duties.

733 (2) The executive director shall employ and set the
 734 compensation for all personnel of the Office of Regulatory Staff
 735 and shall be responsible for the supervision and direction of
 736 all such personnel.

737 (3) Neither the executive director nor any employee of the
 738 Office of Regulatory Staff shall be subject to the supervision,
 739 direction, or control of the commission or the chairman, any
 740 member, or any employee of the commission.

741 (4) The executive director shall be responsible for
 742 preparing the budget for the Office of Regulatory Staff and
 743 shall submit the budget to the Committee on Public Service
 744 Commission Oversight.

745 (5) The Office of Regulatory Staff shall maintain offices
 746 in Leon County at a place convenient to the offices of the
 747 commission that will enable the Office of Regulatory Staff to
 748 efficiently perform its functions and duties.

749 (6) The Office of Regulatory Staff shall establish
 750 procedures governing its internal administration and operations.

751 Section 17. Section 350.073, Florida Statutes, is created
 752 to read:

753 350.073 Executive Director; appointment; term of office;
 754 vacancies; qualifications; salary; oath of office; standards of
 755 conduct—

756 (1) (a) The Committee on Public Service Commission
 757 Oversight shall appoint the executive director of the Office of
 758 Regulatory Staff by majority vote of the committee, subject to
 759 confirmation by a majority vote of both the Senate and the House
 760 of Representatives.

761 (b) Until such time as each chamber confirms the
 762 appointment of the executive director, the appointee shall
 763 perform the functions of the office as provided by law.

764 (c) The reappointment of an executive director is subject
 765 to confirmation by a majority vote of both the Senate and the
 766 House of Representatives.

767 (d) The appointment of an executive director may be
 768 terminated at any time by a majority vote of both the Senate and
 769 the House of Representatives.

770 (2) (a) The term of the executive director shall be 6
 771 years, and the initial term of office shall begin January 2,
 772 2011. The Committee on Public Service Commission Oversight shall
 773 appoint the executive director no less than 60 days prior to the
 774 first day of the term to which he or she is appointed.

775 (b) In case of a vacancy in the office of executive
 776 director for any reason prior to expiration of the term of
 777 office, the Committee on Public Service Commission Oversight
 778 shall appoint a new executive director in the same manner as the
 779 original appointment. The committee may appoint an interim

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780 executive director to serve until such time as a new executive
 781 director is appointed.

782 (2) A person may not be appointed as executive director
 783 until the committee determines that the person satisfies the
 784 criteria set forth in s. 350.04(1) and (2) (a) and possesses a
 785 minimum of 12 years of professional experience in one or more of
 786 the fields identified in s. 350.04(2) (b).

787 (3) The salary of the executive director shall be set by
 788 the committee.

789 (4) The executive director shall take and subscribe to the
 790 oath of office required of state officers by the State
 791 Constitution.

792 (5) In addition to the provisions of part III of Chapter
 793 112, applicable to the executive director by virtue of being a
 794 public officer and full-time employee of the legislative branch
 795 of government, the executive director shall be subject to the
 796 standards of conduct applicable to commissioners pursuant to
 797 paragraphs (2) (a), (b), (c), (d), (e), (g), (l), and (n) of s.
 798 350.041. In the event of a conflict between this section and
 799 part III of Chapter 112, the more restrictive provision shall
 800 apply.

801 Section 18. Section 350.074, Florida Statutes, is created
 802 to read:

803 350.074 Office of Regulatory Staff; duties.—

804 (1) The Office of Regulatory Staff shall represent the
 805 public interest with respect to matters within the jurisdiction
 806 of the commission and, when considered necessary and in the

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807 public interest by the executive director, shall petition the
 808 commission to initiate proceedings on matters within its
 809 jurisdiction. The office shall:

810 (a) When considered necessary and in the public interest
 811 by the executive director, review and investigate the rates
 812 charged or proposed to be charged, and the service furnished or
 813 proposed to be furnished, by any public utility or regulated
 814 company;

815 (b) When considered necessary and in the public interest
 816 by the executive director, inspect, audit, and examine public
 817 utilities and regulated companies regarding matters within the
 818 jurisdiction of the commission;

819 (c) Represent the public interest in commission
 820 proceedings, hearings, rulemakings, and other regulatory
 821 matters;

822 (d) Investigate complaints made in connection with matters
 823 under the jurisdiction of the commission, including those
 824 complaints that are directed to the commission or commissioners;

825 (e) Assist customers in the informal resolution of
 826 complaints regarding the rates or service of public utilities
 827 and regulated companies or regarding any other matter within the
 828 jurisdiction of the commission;

829 (f) Make studies to the commission with respect to
 830 standards, regulations, practices, or service of any public
 831 utility or regulated company.

832 (g) When considered necessary and in the public interest
 833 by the executive director, provide legal representation of the

834 public interest before other state agencies, federal agencies,
 835 and state and federal courts in connection with matters under
 836 the jurisdiction of the commission, including proceedings that
 837 could affect the rates or service of any public utility or
 838 regulated company.

839 (h) When considered necessary and in the public interest
 840 by the executive director, educate the public on matters within
 841 the jurisdiction of the commission which are of special interest
 842 to consumers.

843 (2) Provided that the commission may not require the
 844 office to participate as a party, sponsor witnesses, or provide
 845 testimony in any proceeding, the commission may request in
 846 writing or at any duly noticed public meeting that the Office of
 847 Regulatory Staff:

848 (a) Provide information and reports on any matter subject
 849 to the commission's jurisdiction and matters incidental to the
 850 jurisdiction of the commission;

851 (b) Assist in the preparation of any report that the
 852 commission is required by law to produce; or

853 (c) Conduct inspections, audits, or examinations of public
 854 utilities and regulated companies regarding matters within the
 855 jurisdiction of the commission.

856 (3) Decisions relating to whether, when, or how to
 857 initiate, continue, participate, or intervene in proceedings are
 858 in the sole discretion of the executive director, except for
 859 those matters that are specified by order of a court of
 860 competent jurisdiction.

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861 (4) The Office of Regulatory Staff is considered to have
 862 an interest sufficient to maintain actions for judicial review
 863 of commission orders or decisions and may, as of right and in a
 864 manner prescribed by law, intervene or otherwise participate in
 865 any civil proceeding which involves the review or enforcement of
 866 commission action that the executive director determines may
 867 substantially affect the public interest.

868 (5) The Office of Regulatory Staff shall provide to the
 869 Legislature an annual report of its activities.

870 Section 19. Section 350.075, Florida Statutes, is created
 871 to read:

872 350.075 Office of Regulatory Staff; access to records.-
 873 The Office of Regulatory Staff shall have the authority to
 874 access or require the production of books, records, and
 875 information pursuant to ss. 364.183, 366.093, and 367.156 and
 876 shall have the authority to access or require production of any
 877 other records as provided by law.

878 Section 20. Subsections (1), (2), and (6) of section
 879 350.113, Florida Statutes, are amended to read:

880 350.113 Florida Public Service Regulatory Trust Fund;
 881 moneys to be deposited therein.-

882 (1) There is hereby created in the State Treasury a
 883 special fund to be designated as the "Florida Public Service
 884 Regulatory Trust Fund" which shall be used in the operation of
 885 the commission and the Office of Regulatory Staff in the
 886 performance of the various functions and duties required of
 887 these entities ~~it~~ by law.

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888 (2) All fees, licenses, and other charges collected by the
 889 commission shall be deposited in the State Treasury to the
 890 credit of the Florida Public Service Regulatory Trust Fund to be
 891 used in the operation of the commission and the Office of
 892 Regulatory Staff as authorized by the Legislature; however,
 893 penalties and interest assessed and collected by the commission
 894 shall not be deposited in the trust fund but shall be deposited
 895 in the General Revenue Fund. The Florida Public Service
 896 Regulatory Trust Fund shall be subject to the service charge
 897 imposed pursuant to chapter 215.

898 (6) All moneys in the Florida Public Service Regulatory
 899 Trust Fund shall be for the use of the commission and the Office
 900 of Regulatory Staff in the performance of its functions and
 901 duties as provided by law, subject to the fiscal and budgetary
 902 provisions of general law.

903 Section 21. Subsections (1) and (2) of section 350.117,
 904 Florida Statutes, are amended to read:

905 350.117 Reports; audits.—

906 (1) The commission and the office may require such regular
 907 or emergency reports, including, but not limited to, financial
 908 reports, as the commission or the office deems necessary to
 909 fulfill its obligations under the law. A copy of any report
 910 provided to the commission must be provided to the Office of
 911 Regulatory Staff.

912 (2) The commission may request that the Office of
 913 Regulatory Staff perform management and operation audits of any
 914 regulated company. The commission may consider the results of

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915 such audits in establishing rates; however, the company shall
 916 not be denied due process as a result of the use of any such
 917 management or operation audit.

918 Section 22. Section 350.121, Florida Statutes, is
 919 repealed.

920 Section 23. Section 364.016, Florida Statutes, is amended
 921 to read:

922 364.016 Travel costs.—The office ~~commission~~ has the
 923 authority to assess a telecommunications company for reasonable
 924 travel costs associated with reviewing the records of the
 925 telecommunications company and its affiliates when such records
 926 are kept out of state. The telecommunications company may bring
 927 the records back into the state for review.

928 Section 24. Subsections (11), (12), (13), (14), (15), and
 929 (16) of section 364.02, Florida Statutes, are renumbered as
 930 subsections (12), (13), (14), (15), (16), and (17),
 931 respectively, and subsection (11) is added to that section, to
 932 read:

933 364.02 Definitions.—As used in this chapter, the term:
 934 (11) "Office" means the Office of Regulatory Staff.

935 Section 25. Section 364.15, Florida Statutes, is amended
 936 to read:

937 364.15 Compelling repairs, improvements, changes,
 938 additions, or extensions.—Whenever the commission finds, ~~on its~~
 939 ~~own motion or~~ upon petition or complaint, that repairs or
 940 improvements to, or changes in, any telecommunications facility
 941 ought reasonably to be made, or that any additions or extensions

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942 | should reasonably be made to any telecommunications facility, in
 943 | order to promote the security or convenience of the public or
 944 | employees or in order to secure adequate service or facilities
 945 | for basic local telecommunications services consistent with the
 946 | requirements set forth in this chapter, the commission shall
 947 | make and serve an order directing that such repairs,
 948 | improvements, changes, additions, or extensions be made in the
 949 | manner to be specified in the order. This section authorizes the
 950 | commission to impose only those requirements that it is
 951 | otherwise authorized to impose under this chapter.

952 | Section 26. Subsections (1) and (2) of section 364.183,
 953 | Florida Statutes, are amended to read:

954 | 364.183 Access to company records.—

955 | (1) The commission and the office shall have access to all
 956 | records of a telecommunications company that are reasonably
 957 | necessary for the disposition of matters within the commission's
 958 | jurisdiction. The commission and the office shall also have
 959 | access to those records of a local exchange telecommunications
 960 | company's affiliated companies, including its parent company,
 961 | that are reasonably necessary for the disposition of any matter
 962 | concerning an affiliated transaction or a claim of
 963 | anticompetitive behavior including claims of cross-subsidization
 964 | and predatory pricing. Both the commission and the office may
 965 | require a telecommunications company to file records, reports or
 966 | other data directly related to matters within the commission's
 967 | jurisdiction in the form specified in the request ~~by the~~
 968 | ~~commission~~ and may require such company to retain such

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969 information for a designated period of time. Upon request of the
 970 company or other person, any records received by the commission
 971 or the office which are claimed by the company or other person
 972 to be proprietary confidential business information shall be
 973 kept confidential and shall be exempt from s. 119.07(1) and s.
 974 24(a), Art. I of the State Constitution. The authority of the
 975 commission to access records pursuant to this section is granted
 976 subject to the limitations set forth in s. 350.011(3) and (4).

977 (2) Discovery in any docket or proceeding before the
 978 commission shall be in the manner provided for in Rule 1.280 of
 979 the Florida Rules of Civil Procedure. Upon a showing by a
 980 company or other person and a finding by the commission that
 981 discovery will require the disclosure of proprietary
 982 confidential business information, the commission shall issue an
 983 appropriate protective order designating the manner for handling
 984 such information during the course of the proceeding and for
 985 protecting such information from disclosure outside the
 986 proceeding. Such proprietary confidential business information
 987 shall be exempt from s. 119.07(1). Any records provided pursuant
 988 to a discovery request for which proprietary confidential
 989 business information status is requested shall be treated by the
 990 commission, the Office of Regulatory Staff, ~~and~~ the Office of
 991 the Public Counsel, and any other party subject to the public
 992 records law as confidential and shall be exempt from s.
 993 119.07(1), pending a formal ruling on such request by the
 994 commission or the return of the records to the person providing
 995 the records. Any record which has been determined to be

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996 proprietary confidential business information and is not entered
 997 into the official record of the proceeding shall be returned to
 998 the person providing the record within 60 days after the final
 999 order, unless the final order is appealed. If the final order is
 1000 appealed, any such record shall be returned within 30 days after
 1001 the decision on appeal. The commission shall adopt the necessary
 1002 rules to implement this subsection.

1003 Section 27. Section 364.185, Florida Statutes, is amended
 1004 to read:

1005 364.185 Investigations and inspections; power of office
 1006 ~~commission~~.—The office ~~commission~~ or its duly authorized
 1007 representatives may during all reasonable hours enter upon any
 1008 premises occupied by any telecommunications company and may set
 1009 up and use thereon all necessary apparatus and appliances for
 1010 the purpose of making investigations, inspections, examinations,
 1011 and tests and exercising any power conferred by this chapter or
 1012 Chapter 350; however, the telecommunications company shall be
 1013 notified of and be represented at the making of such
 1014 investigations, inspections, examinations, and tests. The
 1015 requirement to provide prior notification and representation
 1016 shall not be applicable to the onsite field inspection of
 1017 equipment used to provide telecommunications services to the
 1018 transient public, including the facilities of call aggregators.

1019 Section 28. Subsection (4) of section 364.335, Florida
 1020 Statutes, is amended to read:

1021 364.335 Application for certificate.—

1022 (2) If the commission grants the requested certificate,

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1023 any person who would be substantially affected by the requested
 1024 certification may, within 21 days after the granting of such
 1025 certificate, file a written objection requesting a proceeding
 1026 pursuant to ss. 120.569 and 120.57. The commission may, upon
 1027 petition of the office ~~on its own motion~~, institute a proceeding
 1028 under ss. 120.569 and 120.57 to determine whether the grant of
 1029 such certificate is in the public interest. The commission shall
 1030 order such proceeding conducted in or near the territory applied
 1031 for, if feasible. If any person requests a public hearing on the
 1032 application, such hearing shall, if feasible, be held in or near
 1033 the territory applied for, and the transcript of the public
 1034 hearing and any material submitted at or prior to the hearing
 1035 shall be considered part of the record of the application and
 1036 any proceeding related to the application.

1037 (4) Except as provided in s. 364.33, revocation,
 1038 suspension, transfer, or amendment of a certificate shall be
 1039 subject to the provisions of this section; except that, when the
 1040 commission ~~initiates the action~~ institutes a proceeding upon
 1041 petition of the office, the commission shall furnish notice to
 1042 the appropriate local government and to the Public Counsel.

1043 Section 29. Subsection (10) of section 364.3376, Florida
 1044 Statutes, is amended to read:

1045 364.3376 Operator services.—

1046 (10) The office ~~commission~~ shall conduct an effective
 1047 program of random, no-notice compliance investigations of the
 1048 operator services providers and call aggregators operating
 1049 within the state. When the office ~~commission~~ finds a blocking

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1050 violation, it shall notify the commission and provide
 1051 information to assist the commission in determining ~~determine~~
 1052 whether the blocking is the responsibility of the call
 1053 aggregator or the operator services provider. The commission and
 1054 may fine the responsible party in accordance with s. 364.285.
 1055 Upon the failure of the responsible party to correct a violation
 1056 within a mandatory time limit established by the commission or
 1057 upon a proven pattern of intentional blocking, the commission
 1058 shall order the discontinuance of the call aggregator's
 1059 telephone service or revoke the operator services provider's
 1060 certificate, as applicable.

1061 Section 30. Subsection (3) of section 364.3381, Florida
 1062 Statutes, is amended to read:

1063 364.3381 Cross-subsidization.—

1064 (3) The commission shall have continuing oversight
 1065 jurisdiction over cross-subsidization, predatory pricing, or
 1066 other similar anticompetitive behavior and may investigate, upon
 1067 petition or complaint ~~or on its own motion~~, allegations of such
 1068 practices.

1069 Section 31. Section 364.37, Florida Statutes, is amended
 1070 to read:

1071 364.37 Controversy concerning territory to be served;
 1072 powers of commission.—If any person in constructing or extending
 1073 his or her telecommunications facility unreasonably interferes
 1074 or is about to unreasonably interfere with any
 1075 telecommunications facility or service of any other person, or
 1076 if a controversy arises between any two or more persons with

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1077 respect to the territory professed to be served by each, the
 1078 commission, ~~on its own initiative or~~ upon petition of the office
 1079 or ~~on~~ complaint of any person claiming to be adversely affected,
 1080 may make such order and prescribe such terms and conditions with
 1081 respect thereto as are just and reasonable.

1082 Section 32. Subsection (4) is added to section 366.02,
 1083 Florida Statutes, to read:

1084 366.02 Definitions.—As used in this chapter:

1085 (4) "Office" means the Office of Regulatory Staff.

1086 Section 33. Subsections (9) and (11) of section 366.05,
 1087 Florida Statutes, are amended to read:

1088 366.05 Powers.—

1089 (6) The commission or the office, if designated by the
 1090 commission to conduct testing, may purchase materials,
 1091 apparatus, and standard measuring instruments for such
 1092 examination and tests.

1093 (9) Both the commission and the office may require the
 1094 filing of reports and other data by a public utility or its
 1095 affiliated companies, including its parent company, regarding
 1096 transactions, or allocations of common costs, among the utility
 1097 and such affiliated companies. Both the commission and the
 1098 office may also require such reports or other data necessary to
 1099 ensure that a utility's ratepayers do not subsidize nonutility
 1100 activities. The authority of the commission to access records
 1101 pursuant to this subsection is granted subject to the
 1102 limitations set forth in s. 350.011(3) and (4).

1103 (11) The office ~~commission~~ has the authority to assess a

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1104 public utility for reasonable travel costs associated with
 1105 reviewing the records of the public utility and its affiliates
 1106 when such records are kept out of state. The public utility may
 1107 bring the records back into the state for review.

1108 Section 34. Subsections (2) and (3) of section 366.06,
 1109 Florida Statutes, are amended to read:

1110 366.06 Rates; procedure for fixing and changing.—

1111 (2) Whenever the commission finds, upon request made ~~or~~
 1112 ~~upon its own motion~~, that the rates demanded, charged, or
 1113 collected by any public utility for public utility service, or
 1114 that the rules, regulations, or practices of any public utility
 1115 affecting such rates, are unjust, unreasonable, unjustly
 1116 discriminatory, or in violation of law; that such rates are
 1117 insufficient to yield reasonable compensation for the services
 1118 rendered; that such rates yield excessive compensation for
 1119 services rendered; or that such service is inadequate or cannot
 1120 be obtained, the commission shall order and hold a public
 1121 hearing, giving notice to the public and to the public utility,
 1122 and shall thereafter determine just and reasonable rates to be
 1123 thereafter charged for such service and promulgate rules and
 1124 regulations affecting equipment, facilities, and service to be
 1125 thereafter installed, furnished, and used.

1126 (3) Pending a final order by the commission in any rate
 1127 proceeding under this section, the commission may withhold
 1128 consent to the operation of all or any portion of the new rate
 1129 schedules, delivering to the utility requesting such increase,
 1130 within 60 days, a reason or written statement of good cause for

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1131 withholding its consent. Such consent shall not be withheld for
 1132 a period longer than 8 months from the date of filing the new
 1133 schedules. The new rates or any portion not consented to shall
 1134 go into effect under bond or corporate undertaking at the end of
 1135 such period, but the commission shall, by order, require such
 1136 public utility to keep accurate account in detail of all amounts
 1137 received by reason of such increase, specifying by whom and in
 1138 whose behalf such amounts were paid and, upon completion of
 1139 hearing and final decision in such proceeding, shall by further
 1140 order require such public utility to refund with interest at a
 1141 fair rate, to be determined by the commission in such manner as
 1142 it may direct, such portion of the increased rate or charge as
 1143 by its decision shall be found not justified. Any portion of
 1144 such refund not thus refunded to patrons or customers of the
 1145 public utility shall be refunded or disposed of by the public
 1146 utility as the commission may direct; however, no such funds
 1147 shall accrue to the benefit of the public utility. The
 1148 commission shall take final commission action in the docket and
 1149 enter its final order within 12 months of the commencement date
 1150 for final agency action. As used in this subsection, the
 1151 "commencement date for final agency action" means the date upon
 1152 which it has been determined by the commission or its designee
 1153 that the utility has filed with the clerk the minimum filing
 1154 requirements as established by rule of the commission. Within 30
 1155 days after receipt of the application, rate request, or other
 1156 written document for which the commencement date for final
 1157 agency action is to be established, the commission or its

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1158 | designee shall either determine the commencement date for final
 1159 | agency action or issue a statement of deficiencies to the
 1160 | applicant, specifically listing why said applicant has failed to
 1161 | meet the minimum filing requirements. Such statement of
 1162 | deficiencies shall be binding upon the commission to the extent
 1163 | that, once the deficiencies in the statement are satisfied, the
 1164 | commencement date for final agency action shall be promptly
 1165 | established as provided herein. Thereafter, within 15 days after
 1166 | the applicant indicates to the commission that it believes that
 1167 | it has met the minimum filing requirements, the commission or
 1168 | its designee shall either determine the commencement date for
 1169 | final agency action or specifically enumerate in writing why the
 1170 | requirements have not been met, in which case this procedure
 1171 | shall be repeated until the commencement date for final agency
 1172 | action is established. When the commission initiates a
 1173 | proceeding upon a request made by a person other than the
 1174 | utility, the commencement date for final agency action shall be
 1175 | the date upon which the order initiating the proceeding is
 1176 | issued.

1177 | Section 35. Section 366.07, Florida Statutes, is amended
 1178 | to read:

1179 | 366.07 Rates; adjustment.—Whenever the commission, after
 1180 | public hearing either upon petition of the office ~~its own motion~~
 1181 | or upon complaint, shall find the rates, rentals, charges or
 1182 | classifications, or any of them, proposed, demanded, observed,
 1183 | charged or collected by any public utility for any service, or
 1184 | in connection therewith, or the rules, regulations,

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1185 | measurements, practices or contracts, or any of them, relating
 1186 | thereto, are unjust, unreasonable, insufficient, excessive, or
 1187 | unjustly discriminatory or preferential, or in anywise in
 1188 | violation of law, or any service is inadequate or cannot be
 1189 | obtained, the commission shall determine and by order fix the
 1190 | fair and reasonable rates, rentals, charges or classifications,
 1191 | and reasonable rules, regulations, measurements, practices,
 1192 | contracts or service, to be imposed, observed, furnished or
 1193 | followed in the future.

1194 | Section 36. Subsections (1) and (3) of section 366.071,
 1195 | Florida Statutes, are amended to read:

1196 | 366.071 Interim rates; procedure.—

1197 | (1) The commission may, during any proceeding for a change
 1198 | of rates, ~~upon its own motion, or~~ upon petition from any party,
 1199 | or by a tariff filing of a public utility, authorize the
 1200 | collection of interim rates until the effective date of the
 1201 | final order. Such interim rates may be based upon a test period
 1202 | different from the test period used in the request for permanent
 1203 | rate relief. To establish a prima facie entitlement for interim
 1204 | relief, ~~the commission,~~ the petitioning party, or the public
 1205 | utility shall demonstrate that the public utility is earning
 1206 | outside the range of reasonableness on rate of return calculated
 1207 | in accordance with subsection (5).

1208 | (3) In granting such relief, the commission may, in an
 1209 | expedited hearing but within 60 days of the commencement of the
 1210 | proceeding, upon petition ~~or upon its own motion,~~ preclude the
 1211 | recovery of any extraordinary or imprudently incurred

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1212 expenditures or, for good cause shown, increase the amount of
 1213 the bond or corporate undertaking.

1214 Section 37. Subsection (1) of section 366.076, Florida
 1215 Statutes, is amended to read:

1216 366.076 Limited proceedings; rules on subsequent
 1217 adjustments.—

1218 (1) Upon petition ~~or its own motion~~, the commission may
 1219 conduct a limited proceeding to consider and act upon any matter
 1220 within its jurisdiction, including any matter the resolution of
 1221 which requires a public utility to adjust its rates to consist
 1222 with the provisions of this chapter. The commission shall
 1223 determine the issues to be considered during such a proceeding
 1224 and may grant or deny any request to expand the scope of the
 1225 proceeding to include other matters.

1226 Section 38. Section 366.08, Florida Statutes, is amended
 1227 to read:

1228 366.08 Investigations, inspections; power of office
 1229 ~~commission~~.—The office commission or its duly authorized
 1230 representatives may during all reasonable hours enter upon any
 1231 premises occupied by any public utility and may set up and use
 1232 thereon all necessary apparatus and appliances for the purpose
 1233 of making investigations, inspections, examinations and tests
 1234 and exercising any power conferred by this chapter or Chapter
 1235 350; provided, such public utility shall have the right to be
 1236 notified of and be represented at the making of such
 1237 investigations, inspections, examinations and tests.

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1238 Section 39. Subsections (1) and (2) of section 366.093,
 1239 Florida Statutes, are amended to read:

1240 366.093 Public utility records; confidentiality.—

1241 (1) The commission and the office shall ~~continue to~~ have
 1242 reasonable access to all public utility records and records of
 1243 the utility's affiliated companies, including its parent
 1244 company, regarding transactions or cost allocations among the
 1245 utility and such affiliated companies, and such records
 1246 necessary to ensure that a utility's ratepayers do not subsidize
 1247 nonutility activities. Upon request of the public utility or
 1248 other person, any records received by the commission or the
 1249 office which are shown and found by the commission to be
 1250 proprietary confidential business information shall be kept
 1251 confidential and shall be exempt from s. 119.07(1). The
 1252 authority of the commission to access records pursuant to this
 1253 section is granted subject to the limitations set forth in s.
 1254 350.011(3) and (4).

1255 (2) Discovery in any docket or proceeding before the
 1256 commission shall be in the manner provided for in Rule 1.280 of
 1257 the Florida Rules of Civil Procedure. Information which affects
 1258 a utility's rates or cost of service shall be considered
 1259 relevant for purposes of discovery in any docket or proceeding
 1260 where the utility's rates or cost of service are at issue. The
 1261 commission shall determine whether information requested in
 1262 discovery affects a utility's rates or cost of service. Upon a
 1263 showing by a utility or other person and a finding by the
 1264 commission that discovery will require the disclosure of

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1265 proprietary confidential business information, the commission
 1266 shall issue appropriate protective orders designating the manner
 1267 for handling such information during the course of the
 1268 proceeding and for protecting such information from disclosure
 1269 outside the proceeding. Such proprietary confidential business
 1270 information shall be exempt from s. 119.07(1). Any records
 1271 provided pursuant to a discovery request for which proprietary
 1272 confidential business information status is requested shall be
 1273 treated by the commission, the Office of Regulatory Staff, ~~and~~
 1274 the office of the Public Counsel, and any other party subject to
 1275 the public records law as confidential and shall be exempt from
 1276 s. 119.07(1), pending a formal ruling on such request by the
 1277 commission or the return of the records to the person providing
 1278 the records. Any record which has been determined to be
 1279 proprietary confidential business information and is not entered
 1280 into the official record of the proceeding must be returned to
 1281 the person providing the record within 60 days after the final
 1282 order, unless the final order is appealed. If the final order is
 1283 appealed, any such record must be returned within 30 days after
 1284 the decision on appeal. The commission shall adopt the necessary
 1285 rules to implement this provision.

1286 Section 40. Subsections (6) and (7) of section 366.82,
 1287 Florida Statutes, are amended to read:

1288 366.82 Definition; goals; plans; programs; annual reports;
 1289 energy audits.—

1290 (6) The commission may change the goals upon a showing of
 1291 ~~for~~ reasonable cause. The time period to review the goals,

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1292 | however, shall not exceed 5 years. After the programs and plans
 1293 | to meet those goals are completed, the commission shall
 1294 | determine what further goals, programs, or plans are warranted
 1295 | and adopt them.

1296 | (7) Following adoption of goals pursuant to subsections
 1297 | (2) and (3), the commission shall require each utility to
 1298 | develop plans and programs to meet the overall goals within its
 1299 | service area. Upon petition, the commission may require
 1300 | modifications or additions to a utility's plans and programs at
 1301 | any time it is shown to be in the public interest consistent
 1302 | with this act. In approving plans and programs for cost
 1303 | recovery, the commission shall have the flexibility to modify or
 1304 | deny plans or programs that would have an undue impact on the
 1305 | costs passed on to customers. If any plan or program includes
 1306 | loans, collection of loans, or similar banking functions by a
 1307 | utility and the plan is approved by the commission, the utility
 1308 | shall perform such functions, notwithstanding any other
 1309 | provision of the law. However, no utility shall be required to
 1310 | loan its funds for the purpose of purchasing or otherwise
 1311 | acquiring conservation measures or devices, but nothing herein
 1312 | shall prohibit or impair the administration or implementation of
 1313 | a utility plan as submitted by a utility and approved by the
 1314 | commission under this subsection. If the commission disapproves
 1315 | a plan, it shall specify the reasons for disapproval, and the
 1316 | utility whose plan is disapproved shall resubmit its modified
 1317 | plan within 30 days. Prior approval by the commission shall be
 1318 | required to modify or discontinue a plan, or part thereof, which

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1319 has been approved. If any utility has not implemented its
 1320 programs and is not substantially in compliance with the
 1321 provisions of its approved plan at any time, the commission
 1322 shall adopt programs required for that utility to achieve the
 1323 overall goals. Utility programs may include variations in rate
 1324 design, load control, cogeneration, residential energy
 1325 conservation subsidy, or any other measure within the
 1326 jurisdiction of the commission which the commission finds likely
 1327 to be effective; this provision shall not be construed to
 1328 preclude these measures in any plan or program.

1329 Section 41. Subsections (9), (10), (11), (12), and (13) of
 1330 section 367.021, Florida Statutes, are renumbered as subsections
 1331 (10), (11), (12), (13), and (14), respectively, and subsection
 1332 (9) is added to that section, to read:

1333 367.021 Definitions.—As used in this chapter, the
 1334 following words or terms shall have the meanings indicated:

1335 (9) "Office" means the Office of Regulatory Staff.

1336 Section 42. Paragraphs (a) and (c) of subsection (1),
 1337 paragraph (a) of subsection (2), and subsections (4) and (6) of
 1338 section 367.045, Florida Statutes, are amended to read:

1339 367.045 Certificate of authorization; application and
 1340 amendment procedures.—

1341 (1) When a utility applies for an initial certificate of
 1342 authorization from the commission, it shall:

1343 (a) Provide notice of the actual application filed by mail
 1344 or personal delivery to the governing body of the county or city
 1345 affected, ~~to~~ the Public Counsel, the office, ~~to~~ the commission,

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1346 and ~~to~~ such other persons and in such other manner as may be
 1347 prescribed by commission rule;

1348 (2) A utility may not delete or extend its service outside
 1349 the area described in its certificate of authorization until it
 1350 has obtained an amended certificate of authorization from the
 1351 commission. When a utility applies for an amended certificate of
 1352 authorization from the commission, it shall:

1353 (a) Provide notice of the actual application filed by mail
 1354 or personal delivery to the governing body of the county or
 1355 municipality affected, ~~to~~ the Public Counsel, the office, ~~to~~ the
 1356 commission, and ~~to~~ such other persons and in such other manner
 1357 as may be prescribed by commission rule;

1358 (4) If, within 30 days after the last day that notice was
 1359 mailed or published by the applicant, whichever is later, the
 1360 commission receives from the Public Counsel, the office, a
 1361 governmental authority, or a utility or consumer who would be
 1362 substantially affected by the requested certification or
 1363 amendment a written objection requesting a proceeding pursuant
 1364 to ss. 120.569 and 120.57, the commission shall order such
 1365 proceeding conducted in or near the area for which application
 1366 is made, if feasible. Notwithstanding the ability to object on
 1367 any other ground, a county or municipality has standing to
 1368 object on the ground that the issuance or amendment of the
 1369 certificate of authorization violates established local
 1370 comprehensive plans developed pursuant to ss. 163.3161-163.3211.
 1371 If a consumer, utility, or governmental authority or the office
 1372 or Public Counsel requests a public hearing on the application,

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1373 such hearing must, if feasible, be held in or near the area for
 1374 which application is made; and the transcript of such hearing
 1375 and any material submitted at or before the hearing must be
 1376 considered as part of the record of the application and any
 1377 proceeding related thereto.

1378 (6) The revocation, suspension, transfer, or amendment of
 1379 a certificate of authorization is subject to the provisions of
 1380 this section. The commission shall give 30 days' notice before
 1381 it initiates any such action upon petition of the office.

1382 Section 43. Paragraph (a) of subsection (2) and paragraph
 1383 (a) of subsection (4) of section 367.081, Florida Statutes, is
 1384 amended to read:

1385 367.081 Rates; procedure for fixing and changing.—

1386 (2)(a)1. The commission shall, ~~either upon request or upon~~
 1387 ~~its own motion,~~ fix rates which are just, reasonable,
 1388 compensatory, and not unfairly discriminatory. In every such
 1389 proceeding, the commission shall consider the value and quality
 1390 of the service and the cost of providing the service, which
 1391 shall include, but not be limited to, debt interest; the
 1392 requirements of the utility for working capital; maintenance,
 1393 depreciation, tax, and operating expenses incurred in the
 1394 operation of all property used and useful in the public service;
 1395 and a fair return on the investment of the utility in property
 1396 used and useful in the public service. However, the commission
 1397 shall not allow the inclusion of contributions-in-aid-of-
 1398 construction in the rate base of any utility during a rate
 1399 proceeding, nor shall the commission impute prospective future

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1400 contributions-in-aid-of-construction against the utility's
 1401 investment in property used and useful in the public service;
 1402 and accumulated depreciation on such contributions-in-aid-of-
 1403 construction shall not be used to reduce the rate base, nor
 1404 shall depreciation on such contributed assets be considered a
 1405 cost of providing utility service.

1406 2. For purposes of such proceedings, the commission shall
 1407 consider utility property, including land acquired or facilities
 1408 constructed or to be constructed within a reasonable time in the
 1409 future, not to exceed 24 months after the end of the historic
 1410 base year used to set final rates unless a longer period is
 1411 approved by the commission, to be used and useful in the public
 1412 service, if:

1413 a. Such property is needed to serve current customers;

1414 b. Such property is needed to serve customers 5 years
 1415 after the end of the test year used in the commission's final
 1416 order on a rate request as provided in subsection (6) at a
 1417 growth rate for equivalent residential connections not to exceed
 1418 5 percent per year; or

1419 c. Such property is needed to serve customers more than 5
 1420 full years after the end of the test year used in the
 1421 commission's final order on a rate request as provided in
 1422 subsection (6) only to the extent that the utility presents
 1423 clear and convincing evidence to justify such consideration.

1424
 1425 Notwithstanding the provisions of this paragraph, the commission
 1426 shall approve rates for service which allow a utility to recover

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1427 from customers the full amount of environmental compliance
 1428 costs. Such rates may not include charges for allowances for
 1429 funds prudently invested or similar charges. For purposes of
 1430 this requirement, the term "environmental compliance costs"
 1431 includes all reasonable expenses and fair return on any prudent
 1432 investment incurred by a utility in complying with the
 1433 requirements or conditions contained in any permitting,
 1434 enforcement, or similar decisions of the United States
 1435 Environmental Protection Agency, the Department of Environmental
 1436 Protection, a water management district, or any other
 1437 governmental entity with similar regulatory jurisdiction.

1438 (4) (a) On or before March 31 of each year, the commission
 1439 by order shall establish a price increase or decrease index for
 1440 major categories of operating costs incurred by utilities
 1441 subject to its jurisdiction reflecting the percentage of
 1442 increase or decrease in such costs from the most recent 12-month
 1443 historical data available. The commission by rule shall
 1444 establish the procedure to be used in determining such indices
 1445 and a procedure by which a utility, without further action by
 1446 the commission, or the commission upon petition of the office ~~on~~
 1447 ~~its own motion~~, may implement an increase or decrease in its
 1448 rates based upon the application of the indices to the amount of
 1449 the major categories of operating costs incurred by the utility
 1450 during the immediately preceding calendar year, except to the
 1451 extent of any disallowances or adjustments for those expenses of
 1452 that utility in its most recent rate proceeding before the
 1453 commission. The rules shall provide that, upon a finding of good

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1454 cause, including inadequate service, the commission may order a
 1455 utility to refrain from implementing a rate increase hereunder
 1456 unless implemented under a bond or corporate undertaking in the
 1457 same manner as interim rates may be implemented under s.
 1458 367.082. A utility may not use this procedure between the
 1459 official filing date of the rate proceeding and 1 year
 1460 thereafter, unless the case is completed or terminated at an
 1461 earlier date. A utility may not use this procedure to increase
 1462 any operating cost for which an adjustment has been or could be
 1463 made under paragraph (b), or to increase its rates by
 1464 application of a price index other than the most recent price
 1465 index authorized by the commission at the time of filing.

1466 Section 44. Subsections (1), (2), (4), (6), (8), and (10)
 1467 of section 367.0814, Florida Statutes, are amended to read:

1468 367.0814 Office of Regulatory Staff assistance in changing
 1469 rates and charges; interim rates.—

1470 (1) The commission may establish rules by which a water or
 1471 wastewater utility whose gross annual revenues are \$250,000 or
 1472 less may request and obtain ~~staff~~ assistance from the Office of
 1473 Regulatory Staff for the purpose of changing its rates and
 1474 charges. A utility may request such ~~staff~~ assistance by filing
 1475 an application with the commission. The gross annual revenue
 1476 level shall be adjusted on July 1, 2013, and every 5 years
 1477 thereafter, based on the most recent cumulative 5 years of the
 1478 price index established by the commission pursuant to s.

1479 367.081(4)(a).

1480 (2) The official date of filing is established as 30 days

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1481 after official acceptance by the office ~~commission~~ of the
 1482 application. If a utility does not remit a fee, as provided by
 1483 s. 367.145, within 30 days after acceptance, the commission may
 1484 deny the application. The commission has 15 months after the
 1485 official date of filing within which to issue a final order.

1486 (4) The commission may, upon petition from the office or
 1487 ~~its own motion, or upon petition~~ from the regulated utility,
 1488 authorize the collection of interim rates until the effective
 1489 date of the final order. Such interim rates may be based upon a
 1490 test period different from the test period used in the request
 1491 for permanent rate relief. To establish interim relief, there
 1492 must be a demonstration that the operation and maintenance
 1493 expenses exceed the revenues of the regulated utility, and
 1494 interim rates shall not exceed the level necessary to cover
 1495 operation and maintenance expenses as defined by the Uniform
 1496 System of Accounts for Class C Water and Wastewater Utilities
 1497 (1996) of the National Association of Regulatory Utility
 1498 Commissioners.

1499 (6) The utility, in requesting ~~staff~~ assistance from the
 1500 office, shall agree to accept the final rates and charges
 1501 approved by the commission unless the final rates and charges
 1502 produce less revenue than the existing rates and charges.

1503 (8) If a utility becomes exempt from commission regulation
 1504 or jurisdiction during the pendency of a ~~staff-assisted~~ rate
 1505 case conducted pursuant to this section, the request for rate
 1506 relief is deemed to have been withdrawn. Interim rates, if
 1507 previously approved, shall become final. Temporary rates, if

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1508 | previously approved, must be discontinued, and any money
 1509 | collected pursuant to the temporary rates, or the difference
 1510 | between temporary and interim rates, if previously approved,
 1511 | must be refunded to the customers of the utility with interest.

1512 | (10) The commission shall submit to the President of the
 1513 | Senate and the Speaker of the House of Representatives by
 1514 | January 1, 2013, and every 5 years thereafter, a report of the
 1515 | status of proceedings conducted under this section, including
 1516 | the number of utilities eligible to request ~~staff~~ assistance
 1517 | from the office, the number of proceedings conducted annually
 1518 | for the most recent 5-year period, the associated impact on
 1519 | commission and office resources, and any other information the
 1520 | commission deems appropriate. The commission shall request from
 1521 | the office any information necessary to complete this report.

1522 | Section 45. Subsection (6) of section 367.0817, Florida
 1523 | Statutes, is amended to read:

1524 | 367.0817 Reuse projects.—

1525 | (6) After the reuse project is placed in service, the
 1526 | commission, by upon petition ~~or on its own motion~~, may initiate
 1527 | a proceeding to true-up the costs of the reuse project and the
 1528 | resulting rates.

1529 | Section 46. Subsections (1) and (3) of section 367.082,
 1530 | Florida Statutes, are amended to read:

1531 | 367.082 Interim rates; procedure.—

1532 | (1) The commission may, during any proceeding for a change
 1533 | of rates, ~~upon its own motion~~, upon petition from any party, or
 1534 | by a tariff filing of a utility or a regulated company,

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1535 authorize the collection of interim rates until the effective
 1536 date of the final order. Such interim rates may be based upon a
 1537 test period different from the test period used in the request
 1538 for permanent rate relief. Upon application by a utility, the
 1539 commission may use the projected test-year rate base when
 1540 determining the interim rates or revenues subject to refund. To
 1541 establish a prima facie entitlement for interim relief, ~~the~~
 1542 ~~commission,~~ the petitioning party, the utility, or the regulated
 1543 company shall demonstrate that the utility or the regulated
 1544 company is earning outside the range of reasonableness on rate
 1545 of return calculated in accordance with subsection (5).

1546 (3) In granting such relief, the commission may, in an
 1547 expedited hearing but within 60 days of the commencement of the
 1548 proceeding, upon petition ~~or upon its own motion,~~ preclude the
 1549 recovery of any extraordinary or imprudently incurred
 1550 expenditures or, for good cause shown, increase the amount of
 1551 the bond, escrow, letter of credit, or corporate undertaking.

1552 Section 47. Subsection (1) of section 367.0822, Florida
 1553 Statutes, is amended to read:

1554 367.0822 Limited proceedings.—

1555 (1) Upon petition ~~or by its own motion,~~ the commission may
 1556 conduct limited proceedings to consider, and act upon, any
 1557 matter within its jurisdiction, including any matter the
 1558 resolution of which requires a utility to adjust its rates. The
 1559 commission shall determine the issues to be considered during
 1560 such a proceeding and may grant or deny any request to expand
 1561 the scope of the proceeding to include other related matters.

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1562 However, unless the issue of rate of return is specifically
 1563 addressed in the limited proceeding, the commission shall not
 1564 adjust rates if the effect of the adjustment would be to change
 1565 the last authorized rate of return.

1566 Section 48. Section 367.083, Florida Statutes, is amended
 1567 to read:

1568 367.083 Determination of official date of filing.—Within
 1569 30 days after receipt of an application, rate request, or other
 1570 written document for which an official date of filing is to be
 1571 established, the commission or its designee shall either
 1572 determine the official date of filing or issue a statement of
 1573 deficiencies to the applicant, specifically listing why said
 1574 applicant has failed to meet the minimum filing requirements.
 1575 Such statement of deficiencies shall be binding upon the
 1576 commission to the extent that, once the deficiencies in the
 1577 statement are satisfied, the official date of filing shall be
 1578 promptly established as provided herein. Thereafter, within 20
 1579 days after the applicant indicates to the commission that it
 1580 believes that it has met the minimum filing requirements, the
 1581 commission or its designee shall either determine the official
 1582 date of filing or issue another statement of deficiencies,
 1583 specifically listing why the requirements have not been met, in
 1584 which case this procedure shall be repeated until the applicant
 1585 meets the minimum filing requirements and the official date of
 1586 filing is established. When the commission initiates a
 1587 proceeding upon request made by a person other than the utility,
 1588 the official date of filing shall be the date upon which the

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1589 order initiating the proceeding is issued.

1590 Section 49. Subsection (1) of section 367.101, Florida
 1591 Statutes, is amended to read:

1592 367.101 Charges for service availability.—

1593 (1) The commission shall set just and reasonable charges
 1594 and conditions for service availability. The commission by rule
 1595 may set standards for and levels of service-availability charges
 1596 and service-availability conditions. Such charges and conditions
 1597 shall be just and reasonable. The commission shall, upon request
 1598 ~~or upon its own motion,~~ direct the office to investigate
 1599 agreements or proposals for charges and conditions for service
 1600 availability and report the results to the commission.

1601 Section 50. Paragraphs (i) and (k) of subsection (1) and
 1602 subsection (2) of section 367.121, Florida Statutes, are amended
 1603 to read:

1604 367.121 Powers of commission and office.—

1605 (1) In the exercise of its jurisdiction, the commission
 1606 shall have power:

1607 (i) To require the filing of reports and other data by a
 1608 public utility or its affiliated companies, including its parent
 1609 company, regarding transactions or allocations of common costs,
 1610 among the utility and such affiliated companies. The commission
 1611 may also require such reports or other data necessary to ensure
 1612 that a utility's ratepayers do not subsidize nonutility
 1613 activities. The authority of the commission to access records
 1614 pursuant to this paragraph is granted subject to the limitations
 1615 set forth in s. 350.011(3) and (4).

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1616 ~~(k) To assess a utility for reasonable travel costs~~
 1617 ~~associated with reviewing the records of the utility and its~~
 1618 ~~affiliates when such records are kept out of state. The utility~~
 1619 ~~may bring the records back into the state for review.~~

1620 (2) (a) The office ~~commission~~ or its duly authorized
 1621 representatives may, during all reasonable hours, enter upon any
 1622 premises occupied by any utility and set up and use thereon any
 1623 necessary apparatus and appliance for the purpose of making
 1624 investigations, inspections, examinations, and tests and
 1625 exercising any power conferred by this chapter. Such utility
 1626 shall have the right to be notified of and be represented at the
 1627 making of such investigations, inspections, examinations, and
 1628 tests.

1629 (b) The office has the authority to assess a utility for
 1630 reasonable travel costs associated with reviewing the records of
 1631 the utility and its affiliates when such records are kept out of
 1632 state. The utility may bring the records back into the state for
 1633 review.

1634 Section 51. Subsections (3) and (4) of section 367.122,
 1635 Florida Statutes, are amended to read:

1636 367.122 Examination and testing of meters.—

1637 (3) The commission shall establish reasonable fees to be
 1638 paid for testing such meters on the request of the customers.
 1639 Current utility customers or users may, at their discretion, pay
 1640 the fee fixed by the commission at the time of the request or
 1641 have the utility include the fee with their next regularly
 1642 scheduled statement. However, the fee shall be paid by the

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1643 utility and repaid to the customer or user if the meter is found
 1644 defective or incorrect to the disadvantage of the customer or
 1645 user in excess of the degree or amount of tolerance customarily
 1646 allowed for such meters, or as may be provided for in rules and
 1647 regulations of the commission. No fee may be charged for any
 1648 such testing done by the commission or its representatives. The
 1649 commission may designate the office to conduct testing on its
 1650 behalf.

1651 (4) The commission or the office, if designated by the
 1652 commission to conduct testing, may purchase materials,
 1653 apparatus, and standard measuring instruments for such
 1654 examinations and tests.

1655 Section 52. Subsection (3) of section 367.145, Florida
 1656 Statutes, is amended to read:

1657 367.145 Regulatory assessment and application fees.—

1658 (3) Fees collected by the commission pursuant to this
 1659 section may only be used to cover the cost of the commission and
 1660 the office in regulating water and wastewater systems. Fees
 1661 collected by the commission pursuant to chapters 364 and 366 may
 1662 not be used to pay the cost of regulating water and wastewater
 1663 systems.

1664 Section 53. Subsections (1) and (2) of section 367.156,
 1665 Florida Statutes, are amended to read:

1666 367.156 Public utility records; confidentiality.—

1667 (1) The commission and the office shall ~~continue to~~ have
 1668 reasonable access to all utility records and records of
 1669 affiliated companies, including its parent company, regarding

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1670 transactions or cost allocations among the utility and such
 1671 affiliated companies, and such records necessary to ensure that
 1672 a utility's ratepayers do not subsidize nonutility activities.
 1673 Upon request of the utility or any other person, any records
 1674 received by the commission or the office which are shown and
 1675 found by the commission to be proprietary confidential business
 1676 information shall be kept confidential and shall be exempt from
 1677 s. 119.07(1). The authority of the commission to access records
 1678 pursuant to this section is granted subject to the limitations
 1679 set forth in s. 350.011(3) and (4).

1680 (2) Discovery in any docket or proceeding before the
 1681 commission shall be in the manner provided for in Rule 1.280 of
 1682 the Florida Rules of Civil Procedure. Information which affects
 1683 a utility's rates or cost of service shall be considered
 1684 relevant for purposes of discovery in any docket or proceeding
 1685 where the utility's rates or cost of service are at issue. The
 1686 commission shall determine whether information requested in
 1687 discovery affects a utility's rates or cost of service. Upon
 1688 showing by a utility or other person and a finding by the
 1689 commission that discovery will require the disclosure of
 1690 proprietary confidential business information, the commission
 1691 shall issue appropriate protective orders designating the manner
 1692 for handling such information during the course of the
 1693 proceeding and for protecting such information from disclosure
 1694 outside the proceeding. Such proprietary confidential business
 1695 information shall be exempt from s. 119.07(1). Any records
 1696 provided pursuant to a discovery request for which proprietary

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1697 confidential business information status is requested shall be
 1698 treated by the commission, the Office of Regulatory Staff, and
 1699 the office of the Public Counsel, and any other party subject to
 1700 the public records act as confidential and shall be exempt from
 1701 s. 119.07(1), pending a formal ruling on such request by the
 1702 commission or the return of the records to the person providing
 1703 the records. Any record which has been determined to be
 1704 proprietary confidential business information and is not entered
 1705 into the official record of the proceeding must be returned to
 1706 the person providing the record within 60 days after the final
 1707 order, unless the final order is appealed. If the final order is
 1708 appealed, any such record must be returned within 30 days after
 1709 the decision on appeal. The commission shall adopt the necessary
 1710 rules to implement this provision.

1711 Section 54. Subsection (5) of section 367.171, Florida
 1712 Statutes, is amended to read:

1713 367.171 Effectiveness of this chapter.—

1714 (5) When a utility becomes subject to regulation by a
 1715 county, all cases in which the utility is a party then pending
 1716 before the commission, or in any court by appeal from any order
 1717 of the commission, shall remain within the jurisdiction of the
 1718 commission or court until disposed of in accordance with the law
 1719 in effect on the day such case was filed by any party with the
 1720 commission or initiated by the commission upon the petition of
 1721 any party, whether or not the parties or the subject of any such
 1722 case relates to a utility in a county wherein this chapter no
 1723 longer applies.

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1724 Section 55. Subsection (4) is added to section 368.05,
 1725 Florida Statutes, to read:
 1726 368.05 Commission jurisdiction; rules.—
 1727 (4) The commission may not, on its own motion, initiate
 1728 any proceeding under this part. The authority of the commission
 1729 to access records pursuant to this section is granted subject to
 1730 the limitations set forth in s. 350.011(3) and (4).
 1731 Section 56. Subsections (2) and (3) of section 368.061,
 1732 Florida Statutes, are amended to read:
 1733 368.061 Penalty.—
 1734 (2) Any such civil penalty may be compromised by the
 1735 commissioners. In determining the amount of such penalty or the
 1736 amount agreed upon in compromise, the appropriateness of such
 1737 penalty to the size of the business of the person charged, the
 1738 gravity of the violation, and the good faith of the person
 1739 charged in attempting to achieve compliance after notification
 1740 of a violation shall be considered. Each penalty shall be a lien
 1741 upon the real and personal property of said persons and
 1742 enforceable by the commission as statutory liens under chapter
 1743 85, the proceeds of which shall be deposited in the general
 1744 revenue fund of the state.
 1745 (3) The commissioners may, upon petition ~~at their~~
 1746 ~~discretion~~, cause to be instituted in any court of competent
 1747 jurisdiction in this state proceedings for injunction against
 1748 any person subject to the provisions of this part to compel the
 1749 observance of the provisions of this part or any rule,
 1750 regulation, or requirement of the commission made thereunder.

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1751 Section 57. Subsections (5) and (6) of section 368.103,
 1752 Florida Statutes, are renumbered as subsections (6) and (7),
 1753 respectively, and subsection (5) is added to that section, to
 1754 read:

1755 368.103 Definitions.—As used in ss. 368.101-368.112, the
 1756 term:

1757 (5) "Office" means the Office of Regulatory Staff.

1758 Section 58. Subsection (2) of section 368.106, Florida
 1759 Statutes, is amended to read:

1760 368.106 Statement of intent to increase rates; major
 1761 changes; hearing; suspension of rate schedules; determination of
 1762 rate level.—

1763 (2) Except when a rate is deemed just and reasonable
 1764 pursuant to s. 368.105(3), if there is filed with the commission
 1765 an initial rate, or a change or modification in any rate in
 1766 effect, the commission shall, on complaint by any person whose
 1767 substantial interests are affected by the rate, or may, upon
 1768 petition by the office ~~on its own motion~~, at any time before
 1769 such rate would have taken effect, order a hearing pursuant to
 1770 ss. 120.569 and 120.57 to determine whether the rate is just and
 1771 reasonable.

1772 Section 59. Section 368.107, Florida Statutes, is amended
 1773 to read:

1774 368.107 Unreasonable or violative existing rates and
 1775 services.—If the commission, after reasonable notice and
 1776 hearing, ~~on its own motion~~ upon petition by the office or
 1777 written complaint by any person who has a substantial interest,

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1778 finds that any rate or service filed with the commission,
 1779 including any rate filed pursuant to s. 368.105(3), whether or
 1780 not being demanded, observed, charged, or collected by any
 1781 natural gas transmission company for any service is unjust,
 1782 unreasonable, or unduly discriminatory or preferential, or in
 1783 any way in violation of any provision of law, the commission
 1784 shall determine the just and reasonable rates, including maximum
 1785 or minimum rates and services, to be thereafter observed and in
 1786 force, and shall fix the same by order to be served on the
 1787 natural gas transmission company. Those rates and services shall
 1788 constitute the legal rates and services of the natural gas
 1789 transmission company until changed as provided by ss. 368.101-
 1790 368.112.

1791 Section 60. Subsections (1) and (2) of section 368.108,
 1792 Florida Statutes, are amended to read:

1793 368.108 Confidentiality; discovery.-

1794 (1) The commission and the office shall ~~continue to~~ have
 1795 reasonable access to all natural gas transmission company
 1796 records and records of the natural gas transmission company's
 1797 affiliated companies, including its parent company, regarding
 1798 transactions or cost allocations among the natural gas
 1799 transmission company and such affiliated companies, and such
 1800 records necessary to ensure that a natural gas transmission
 1801 company's ratepayers do not subsidize unregulated activities.
 1802 Upon request of the natural gas transmission company or other
 1803 person, any records received by the commission or the office
 1804 which are shown and found by the commission to be proprietary

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1805 confidential business information shall be confidential and
 1806 exempt from s. 119.07(1). The authority of the commission to
 1807 access records pursuant to this section is granted subject to
 1808 the limitations set forth in s. 350.011(3) and (4).

1809 (2) Discovery in any docket or proceeding before the
 1810 commission shall be in the manner provided for in Rule 1.280 of
 1811 the Florida Rules of Civil Procedure. Information which affects
 1812 a natural gas transmission company's rates or cost of service
 1813 shall be considered relevant for purposes of discovery in any
 1814 docket or proceeding where the natural gas transmission
 1815 company's rates or cost of service are at issue. The commission
 1816 shall determine whether information requested in discovery
 1817 affects a natural gas transmission company's rates or cost of
 1818 service. Upon a showing by a natural gas transmission company or
 1819 other person and a finding by the commission that discovery will
 1820 require the disclosure of proprietary confidential business
 1821 information, the commission shall issue appropriate protective
 1822 orders designating the manner for handling such information
 1823 during the course of the proceeding and for protecting such
 1824 information from disclosure outside the proceeding. Such
 1825 proprietary confidential business information shall be exempt
 1826 from s. 119.07(1). Any records provided pursuant to a discovery
 1827 request for which proprietary confidential business information
 1828 status is requested shall be treated by the commission, the
 1829 Office of Regulatory Staff, ~~and~~ the office of the Public
 1830 Counsel, and any other party subject to the public records law
 1831 as confidential and shall be exempt from s. 119.07(1) pending a

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1832 formal ruling on such request by the commission or the return of
 1833 the records to the person providing the records. Any record
 1834 which has been determined to be proprietary confidential
 1835 business information and is not entered into the official record
 1836 of the proceeding must be returned to the person providing the
 1837 record within 60 days after the final order, unless the final
 1838 order is appealed. If the final order is appealed, any such
 1839 record must be returned within 30 days after the decision on
 1840 appeal. The commission shall adopt the necessary rules to
 1841 implement this provision.

1842 Section 61. Section 368.1085, Florida Statutes, is amended
 1843 to read:

1844 368.1085 Travel costs.—The office ~~commission~~ has the
 1845 authority to assess a natural gas transmission company for
 1846 reasonable travel costs associated with reviewing the records of
 1847 the natural gas transmission company and its affiliates when
 1848 such records are kept out of state. The natural gas transmission
 1849 company may bring the records back into the state for review.

1850 Section 62. Section 368.109, Florida Statutes, is amended
 1851 to read:

1852 368.109 Regulatory assessment fees.—Each natural gas
 1853 transmission company operating under ss. 368.101-368.112, for
 1854 all or any part of the preceding 6-month period, shall pay to
 1855 the commission, within 30 days following the end of each 6-month
 1856 period, a fee that may not exceed 0.25 percent annually of its
 1857 gross operating revenues derived from intrastate business
 1858 excluding sales for resales to natural gas transmission

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1859 companies, public utilities that supply gas, municipal gas
 1860 utilities, and gas districts. The fee shall, to the extent
 1861 practicable, be related to the cost of the commission and the
 1862 office in regulating such natural gas transmission companies.

1863 Section 63. Subsection (1) of section 403.519, Florida
 1864 Statutes, is amended to read:

1865 403.519 Exclusive forum for determination of need.—

1866 (1) On request by an applicant or upon petition by the
 1867 Office of Regulatory Staff ~~on its own motion~~, the commission
 1868 shall begin a proceeding to determine the need for an electrical
 1869 power plant subject to the Florida Electrical Power Plant Siting
 1870 Act.

1871 Section 64. Paragraph (a) of subsection (1) of section
 1872 403.537, Florida Statutes, is amended to read:

1873 403.537 Determination of need for transmission line;
 1874 powers and duties.—

1875 (1)(a) Upon request by an applicant or upon petition by
 1876 the Office of Regulatory Staff ~~its own motion~~, the Florida
 1877 Public Service Commission shall schedule a public hearing, after
 1878 notice, to determine the need for a transmission line regulated
 1879 by the Florida Electric Transmission Line Siting Act, ss.
 1880 403.52-403.5365. The notice shall be published at least 21 days
 1881 before the date set for the hearing and shall be published by
 1882 the applicant in at least one-quarter page size notice in
 1883 newspapers of general circulation, and by the commission in the
 1884 manner specified in chapter 120, by giving notice to counties
 1885 and regional planning councils in whose jurisdiction the

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1886 transmission line could be placed, and by giving notice to any
 1887 persons who have requested to be placed on the mailing list of
 1888 the commission for this purpose. Within 21 days after receipt of
 1889 a request for determination by an applicant, the commission
 1890 shall set a date for the hearing. The hearing shall be held
 1891 pursuant to s. 350.01 within 45 days after the filing of the
 1892 request, and a decision shall be rendered within 60 days after
 1893 such filing.

1894 Section 65. Paragraph (a) of subsection (1) of section
 1895 403.9422, Florida Statutes, is amended to read:

1896 403.9422 Determination of need for natural gas
 1897 transmission pipeline; powers and duties.—

1898 (1) (a) Upon request by an applicant or upon petition by
 1899 the Office of Regulatory Staff ~~its own motion~~, the commission
 1900 shall schedule a public hearing, after notice, to determine the
 1901 need for a natural gas transmission pipeline regulated by ss.
 1902 403.9401-403.9425. Such notice shall be published at least 45
 1903 days before the date set for the hearing and shall be published
 1904 in at least one-quarter page size in newspapers of general
 1905 circulation and in the Florida Administrative Weekly, by giving
 1906 notice to counties and regional planning councils in whose
 1907 jurisdiction the natural gas transmission pipeline could be
 1908 placed, and by giving notice to any persons who have requested
 1909 to be placed on the mailing list of the commission for this
 1910 purpose. Within 21 days after receipt of a request for
 1911 determination by an applicant, the commission shall set a date
 1912 for the hearing. The hearing shall be held pursuant to s. 350.01

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1913 | within 75 days after the filing of the request, and a decision
1914 | shall be rendered within 90 days after such filing.
1915 | Section 66. This act shall take effect October 1, 2010.

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