

FLORIDA PUBLIC SERVICE COMMISSION NOMINATING COUNCIL

111 West Madison Street, Room 874, Tallahassee, FL 32399-1400
Phone (850) 717-0301 Fax (850) 414-1909
Website: www.leg.state.fl.us/pscnc

CHAIR

*Sen. Joseph Abruzzo
Wellington*

VICE CHAIR

*Rep. Jose Felix Diaz
Miami*

COUNCIL MEMBERS

*Wogan S. Badcock, III
Mulberry*

*Rachel V. Burgin
Tampa*

*Sen. Antiere Flores
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*J. Dudley Goodlette
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*Rep. Mike La Rosa
St. Cloud*

*Sen. Garrett Richter
Naples*

*Jose E. Valiente
Tampa*

*Seth D. Weightman
Dade City*

*Rep. Alan B. Williams
Tallahassee*

Vacant

COUNCIL STAFF

Takeshia L. Stokes

May 16, 2014

Dear Applicant:

Please find enclosed a letter from the Chairman of the Public Service Commission Nominating Council (PSCNC), the Florida Public Service Commission Application, and other information for your review. I am the Administrative Assistant to the Council and can be contacted at the number referenced in the letterhead regarding your questions about this process. As stated in the Chairman's letter, all applications must be received by the Florida Public Service Commission Nominating Council's Office at the above-referenced address by 5:00 p.m., Tuesday, June 17, 2014.

It is important that you read and follow the instructions, including the Certification, on the Application carefully. The PSCNC is an entity that is subject to the Florida public records law. Therefore, the Application and other information obtained by the PSCNC are public records. The Certification contains a release by you which authorizes certain entities to respond to information requests from the PSCNC regarding the Applicant, whether or not the requested information is a public record. Please be advised that any information submitted to the PSCNC becomes a public record unless specifically exempted by Florida public records law.

The PSCNC frequently receives public record requests from third parties for any and/or all applications received by the PSCNC. The applications are redacted in accordance with Florida public records law before they are released. The PSCNC is not responsible for subsequent redistributions of a redacted application by third parties.

Once again, please feel free to contact me with any questions.

Sincerely,



Takeshia L. Stokes

Enclosure(s)

FLORIDA PUBLIC SERVICE COMMISSION NOMINATING COUNCIL

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Vacant

COUNCIL STAFF

Takeshia L. Stokes

May 16, 2014

Dear Applicant:

Thank you for your interest in the Florida Public Service Commission (PSC) vacancies. Enclosed is the application packet and information necessary to complete your application. All applications must be filed in the Florida Public Service Commission Nominating Council's Office by 5:00 p.m., Tuesday, June 17, 2014.

For your convenience, the application packet contains relevant Florida Statutes and the Council's Rules of Procedures.

Your application will be reviewed and the most qualified applicants will be selected for personal interviews before the Council at a later date.

With best wishes,



Senator Joseph Abruzzo
Chairman

Enclosure(s)
t/s

IMPORTANT NOTICE

Application Checklist

Your Application will not be considered unless you have done all of the following prior to returning your Public Service Commission application:

1. The original Public Service Commission application must be enclosed, signed and dated.
2. In addition to the original Public Service Commission application, **14** complete copies (for a total of **15** sets) of the application must be enclosed including any attachments (transcript, resumes, letters of endorsement and other addenda) you wish considered. No additional copies will be made by this office.
3. All **15** application sets (one original and **14** copies) must be received, in our office, by **5:00 p.m., Tuesday, June 17, 2014.**



FLORIDA PUBLIC SERVICE COMMISSION

APPLICANT INFORMATION

Florida Public Service Commission Nominating Council
c/o Office of Legislative Services
874 Claude Pepper Building ♦ 111 West Madison Street
Tallahassee, Florida 32399-1400
Website: www.leg.state.fl.us/pscnc



IMPORTANT INFORMATION AND INSTRUCTIONS

- The position of Florida Public Service Commissioner is full-time with headquarters in Tallahassee, Florida.
- In order to be considered for nomination for any vacancy, applicants must submit an official Florida Public Service Commission application.
- **The original signed application form with attachments plus 14 complete copies** (including transcript, resumes, letters of endorsement and other addenda) **for a total of 15 must be submitted to the Council's Office at the address above.**
 - The application must be completed in its entirety with original signature and dated. Incomplete applications, including those without the required number of copies, will be returned and will not be processed. No additional copies will be made by this office.
 - Application **MUST** be received in the Council's Office no later than **5:00 p.m. on Tuesday, June 17, 2014. Late applications will not be considered.**

PLEASE NOTE:

If you are filling out the application using the PDF format, please remember that you must mail 14 copies along with your original application with original signature. Your application must be received by 5:00 p.m., Tuesday, June 17, 2014. Electronically filed applications will not be accepted.

If you have Adobe Acrobat Reader version 8 or greater, you may type directly into and save the contents of this PDF. If you have earlier versions of Acrobat Reader, you may complete the form online and print a copy, however, you cannot save the document.



FLORIDA PUBLIC SERVICE COMMISSION APPLICATION



APPLICANT INFORMATION (TYPE OR PRINT IN INK)

NAME (Last, First, Middle) (Prior)	
MAILING ADDRESS	HOME TELEPHONE ()
CITY, STATE, ZIP	COUNTY BUSINESS TELEPHONE ()

COMPETENCE AND KNOWLEDGE

Section 350.031(5), Florida Statutes, provides that in order to be nominated to the Governor, the Council must determine that applicants are competent and knowledgeable in one or more of the following fields, which shall include, but not be limited to:

- | | | |
|----------------------|-------------------|------------------------|
| _____ Public Affairs | _____ Accounting | _____ Natural Resource |
| _____ Law | _____ Engineering | _____ Conservation |
| _____ Economics | _____ Finance | _____ Energy |

Other field(s) substantially related to the duties and functions of the Commission:

In the above list, please indicate the fields in which you assert competence and knowledge. Additionally, please provide details in the "REMARKS" section on the last page of this application of your qualifications in each of the specified disciplines which demonstrate your knowledge and competency.

EDUCATION

A copy of your college transcript must be submitted with the completed application

CIRCLE highest grade completed:

1 2 3 4 5 6 7 8 9 10 11 12												GED					College 1 2 3 4 5					Graduate School 1 2 3 4 5							
SCHOOL	DID YOU GRADUATE?		NAME AND ADDRESS										MAJOR / MINOR					DEGREE RECEIVED					MONTH/YEAR GRADUATED					IF NO DEGREE # HRS. EARNED	
	Yes	No																										QTR	SEM
High School																													
Community/Vocational/Technical/College																													
College/University																													
Graduate/Professional																													
Other																													

LICENSES•CERTIFICATIONS•SPECIAL SKILLS

Please indicate any special skills, professional or occupational licensure you currently possess.

EMPLOYMENT ELIGIBILITY

Are you legally entitled to work in the United States? _____ Yes _____ No

SPECIAL NOTE: If you are not a U.S. citizen, you must attach a copy of an I-151 or similar documentation to confirm your eligibility for appointment to the Florida Public Service Commission.

Section 110.1128, Florida Statutes, requires male applicants between the ages of eighteen and twenty-six to provide proof of registration with the United States Selective Service as required by the Military Selective Service Act. If you are in this age group, please provide your date of birth and your Selective Service number.

Date of Birth: _____ Registration Number: _____

EMPLOYMENT

Name of Present or Last Employer: _____

Employment Dates: _____ TO _____

Business Address:

Supervisor:

Name: _____

Title: _____

Telephone: (____) _____ Ext.: _____

Hours Per Week: _____ () Part Time () Full Time () Volunteer

Position Title: _____ Ending Salary \$ _____

Primary Duties:

Reason for leaving or seeking other employment:

A resume detailing your employment history should be attached as an addendum to this application.

LEGAL HISTORY

Have you pleaded nolo contendere to, or been convicted of, a first degree misdemeanor or a felony in any court, domestic or foreign?
_____ Yes _____ No

A conviction includes a plea of guilty, guilty verdict, or finding of guilt, regardless of whether the sentence is imposed by the Court or adjudication is withheld. If "Yes", please explain:

A "yes" answer to these questions will not necessarily preclude you from nomination or appointment. Each case will be judged on its own merit, with respect to time, circumstances, and seriousness.

Have you ever been found guilty in any civil proceeding with conduct involving moral turpitude, dishonesty and/or unethical conduct?
_____ Yes _____ No If "Yes", give particulars.

Have you ever been disciplined to include action taken against your certificate or license or cited for a breach of ethics or unprofessional conduct by any court, administrative agency or professional group? _____ Yes _____ No If "Yes", give particulars.

GENERAL INFORMATION

Have you ever held public office, including judicial office, or have you ever been a candidate for such office? _____ Yes _____ No
If "Yes", give the details, including the offices involved, whether elected or appointed, and the dates of your service.

If you are presently an officer or director of any business organization, please give details, including the name of the business, the nature of the business, the business address and your title.

If you are appointed to the Florida Public Service Commission, do you intend to resign from your position of employment or from those positions in which you serve as an officer or director of a business organization? _____ Yes _____ No
State your reasons for planning to resign or for planning to continue.

Have any of your present or previous businesses or employers been directly regulated by the Florida Public Service Commission, or by any other state's public utilities commission? _____ Yes _____ No
If "Yes", state the name of the business, the position you held, and the dates of your association with such business.

Have you ever represented yourself or a client before the Florida Public Service Commission, or before any other state's public utilities commission? _____ Yes _____ No
If "Yes", give particulars.

FINANCIAL DISCLOSURE

PART A – NET WORTH

Please enter the value of your net worth as of December 31, 2013, or a more current date. [Note: Net worth is not calculated by subtracting your reported liabilities from your reported assets, so please see the instructions.]

My net worth as of _____, 20____ was \$ _____

PART B – ASSETS

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes: jewelry; collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use.

The aggregate value of my household goods and personal effects (described above) is \$ _____

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

DESCRIPTION OF ASSET	VALUE OF ASSET

PART C – LIABILITIES

LIABILITIES IN EXCESS OF \$1,000:

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY

PART D – INCOME

You may ***EITHER*** (1) file a complete copy of your 2013 federal income tax return, including all attachments, ***OR*** (2) file a sworn statement identifying each separate source and amount of income which exceeds \$1,000, including secondary sources of income, by completing the remainder of Part D, below.

____ I elect to file a copy of my 2013 federal income tax return. [If you check this box and attach a copy of your 2013 tax return, you need not complete the remainder of Part D.]

PRIMARY SOURCES OF INCOME:

NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT

SECONDARY SOURCES OF INCOME [Major customers, clients, etc., of businesses owned by reporting person—see instructions]:

NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE

PART E – INTERESTS IN SPECIFIED BUSINESSES

	BUSINESS ENTITY #1	BUSINESS ENTITY #2	BUSINESS ENTITY #3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			

IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK _____

REMARKS

Use this space to provide specific details of your qualifications which demonstrate your knowledge and competency in the fields listed in Section 350.031(5), Florida Statutes. Also, please include other comments or information you regard as pertinent to your consideration of this position.

CERTIFICATION

I have read the foregoing questions carefully and have answered them truthfully, fully and completely. I hereby authorize educational and other institutions, any references furnished by me, employers, business and professional associates, all governmental agencies and instrumentalities and all consumer and credit reporting agencies to release to the Florida Public Service Commission Nominating Council and the Florida Department of Law Enforcement (FDLE) any information, files, records or credit reports requested by the Council or FDLE in connection with any consideration of me as a possible nominee for appointment to the Florida Public Service Commission.

Signature: _____ Date: _____

Instructions for Completing Financial Disclosure

PART A — NET WORTH

[Required by Art. II, Sec. 8(a)(i)(1), Fla. Const.]

Report your net worth as of December 31, 2013, or a more current date, and list that date. This should be the same date used to value your assets and liabilities. In order to determine your net worth, you will need to total the value of all your assets and subtract the amount of all of your liabilities. Simply subtracting the liabilities reported in Part C from the assets reported in Part B will not result in an accurate net worth figure in most cases.

To total the value of your assets, add:

- (1) The aggregate value of household goods and personal effects, as reported;
- (2) The value of all assets worth over \$1,000, as reported; and
- (3) The total value of any assets worth less than \$1,000 that were not reported or included in the category of “household goods and personal effects.”

To total the amount of your liabilities, add:

- (1) The total amount of each reported liability over \$1,000 (do not include any of the amounts listed in the “joint and several liabilities” portion of the form.); and
- (2) The total amount of unreported liabilities (including those under \$1,000, credit card and retail installment accounts, and taxes owed).

NOTE: In order to avoid a net worth figure that unrealistically portrays your liabilities, business-related loans that were taken into account when valuing your interest in the business as an asset in Part B should not be included again as liabilities, even though you may be personally liable for the loan.

Examples:

— You owe \$10,000 to a bank for student loans, \$5,000 for credit card debts, and \$60,000 (with your spouse) to a savings and loan for a home mortgage. Your home (owned by you and your spouse) is worth \$80,000 and your other assets are worth \$20,000. Your net worth should be reported as \$25,000 [$\$100,000$ of assets ($\$80,000 + \$20,000$) minus $\$75,000$ of liabilities ($\$10,000 + \$5,000 + \$60,000$)].

— You and your 50% business partner have a business loan from a bank of \$100,000, for which you both are jointly and severally liable. The value of the business, taking into account the loan as a liability of the business, is \$50,000. Your other assets are worth \$30,000, and you owe \$5,000 on a credit card. Your total assets will be \$55,000 (half of a business worth \$50,000 plus \$30,000 of other assets). Your liabilities, for net worth purposes, will be only \$5,000, because the full amount of the business loan already was included in valuing the business. Therefore, your net worth is \$50,000.

— You and three others own investment property worth \$100,000 and are jointly and severally liable for the mortgage of \$80,000. Your other assets, including household goods and personal effects, amount to \$50,000, and you have no other debts. Your net worth is \$55,000 [$\$75,000$ of assets ($1/4$ of $\$100,000$ plus $\$50,000$) minus $\$20,000$ of liabilities ($1/4$ of $\$80,000$)].

PART B — ASSETS WORTH MORE THAN \$1,000

[Required by Art. II, Sec. 8(a)(i)(1), Fla. Const.; Sec. 112.3144, F.S.]

HOUSEHOLD GOODS AND PERSONAL EFFECTS:

As noted on the form, the value of your household goods and personal effects may be aggregated and reported as a lump sum, if their aggregate value exceeds \$1,000. The types of assets that can be reported in this manner are described on the form.

ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:

In this part, please provide a description of each asset of yours on the reporting date chosen for your net worth (Part A), that was worth more than \$1,000 and that is not included as household goods and personal effects, and list its value. Assets include: interests in real property (land and buildings), such as your home, vacant land, real property, etc.; tangible personal property not aggregated as household goods and personal effects, such as collections of art or other objects held for investment purposes, animals, musical instruments, etc.; and intangible personal property, such as money, stocks, bonds, certificates of deposit, interests in partnerships, beneficial interests in a trust, promissory notes owed to you, accounts receivable by you, IRA's, and bank accounts. You are not required to disclose assets owned solely by your spouse.

How to Identify or Describe the Asset:

— Real property (land and buildings): Identify by providing a description of the property and its location. Although a legal description of the property will do, such a lengthy description is not required. Using simpler descriptions, such as “duplex, 115 Terrace Avenue, Tallahassee” or “40 acres located at the intersection of Hwy. 60 and I-95, Lake County” is sufficient. In some cases, the property tax identification number of the property will help in identifying it: “120 acre ranch on Hwy. 902, Hendry County, Tax ID # 131-45863.”

— Intangible property: Identify the type of property and the business entity or person to which or whom it relates. Do not list simply “stocks and bonds” or “bank accounts.” For example, list “Stock (Williams Construction Co.),” “Bonds (Southern Water and Gas),” “Bank accounts (First National Bank),” “Smith family trust,” “Promissory note and mortgage (owed by John and Jane Doe).”

How to Value Assets:

— Value each asset by its fair market value on the date used in Part A for your net worth.

— Jointly held assets: If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. However, assets that are held jointly with right of survivorship must be reported at 100% of their value.

— Partnerships: You are deemed to own an interest in a partnership which corresponds to your interest in the capital (equity) of that partnership.

— Trusts: You are deemed to own an interest in a trust which corresponds to your percentage interest in the trust corpus. If you are a beneficiary of a trust and your interest depends on the duration of an individual's life, the value of your interest should be determined by applying the appropriate actuarial table to the value of the property owned by the trust.

— Real property may be valued at its market value for tax purposes, unless a more accurate appraisal of its fair market value is available.

— Marketable securities which are widely traded and whose prices are generally available should be valued based upon the closing price on the valuation date.

— Accounts, notes, and loans receivable: Value at fair market value, which generally is the amount you reasonably expect to collect.

— Closely-held businesses: Use any method of valuation which in your judgment most closely approximates fair market value, such as book value, reproduction value, liquidation value, capitalized earnings value, capitalized cash flow value, or value established by “buy-out” agreements. It is suggested that the method of valuation chosen be indicated in a footnote on the form.

— Life Insurance: Use cash surrender value less loans against the policy, plus accumulated dividends.

PART C— LIABILITIES

[Required by Art. II, Sec. 8(a)(i)(1), Fla. Const.; Sec. 112.312(14), F.S.]

LIABILITIES IN EXCESS OF \$1,000:

In this part, list the name and address of each creditor to whom you were indebted on the reporting date chosen for your net worth (Part A) in an amount that exceeded \$1,000 and list the amount of the liability. Liabilities include: accounts payable; notes payable, whether secured by a lien or mortgage or unsecured; interest payable; real estate mortgages payable; debts or obligations to governmental entities other than taxes (except when the taxes have been reduced to a judgment); and judgments against you. You are not required to disclose liabilities owed solely by your spouse.

You do not have to list on the form any of the following: credit card and retail installment accounts, taxes owed (unless the taxes have been reduced to a judgment), indebtedness on a life insurance policy owed to the company of issuance, contingent liabilities, and accrued income taxes on net unrealized appreciation (an accounting concept). A “contingent liability” is one that will become an actual liability only when one or more future events occur or fail to occur, such as where there is pending or threatened litigation, where you are liable only as a partner (without personal liability) for partnership debts, or where you are liable only as a guarantor, surety, or endorser on a promissory note. If you are a “co-maker” on a note payable and have signed as being jointly liable or jointly and severally liable, then this is not a contingent liability.

How to Determine the Amount of a Liability:

— Generally, the amount of the liability is the face amount of the debt.

— If you are the only person obligated to satisfy a liability, 100% of the liability should be listed.

— If you are jointly and severally liable with another person or entity, which often is the case where more than one person is liable on a promissory note, you should report here only the portion of the liability that corresponds to your percentage of liability. However, if you are jointly and severally liable with your spouse for a debt which relates to property owned by you and the other(s) jointly, with right of survivorship, report in this part of the form 100% of the total amount owed.

— If you are only jointly liable with another person or entity, your share of the liability should be determined in the same way as you determined your share of jointly-held assets. Therefore, if a liability is a lien on an asset which is owned jointly, the same percentage responsibility for that liability should be used in calculating the amount of the liability as was used for calculating the value of the asset.

Examples:

— You owe \$10,000 to a bank for student loans, \$5,000 for credit card debts, and \$60,000 with your spouse to a savings and loan for the mortgage on your home (owned by you and your spouse). You must report the name and address of the bank (\$10,000 being the amount of that liability) and the name and address of the savings and loan (\$60,000 being the amount of this liability). The credit card debts do not need to be reported.

— You and your 50% business partner have a business loan from a bank of \$100,000, for which you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability. If your liability for the loan is only as a partner, without personal liability, then the loan would be a contingent liability.

JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:

List in this part of the form the amount of each debt for which you were jointly and severally liable that is not reported in the “Liabilities in Excess of \$1,000” part of the form.

Example:

— You and your 50% business partner have a business loan from a bank of \$100,000, for which you both are jointly and severally liable. Report the name and address of the bank and \$50,000 as the amount of the liability, as you reported the other 50% of the debt earlier.

PART D — INCOME

[Required by Art. II, Sec. 8(a)(i)(1), Fla. Const.]

As noted on the form, you have the option of either filing a copy of your complete 2013 federal income tax return, including all schedules, W2’s and attachments, with Form 6, or of completing Part D of the form. If you do not attach your tax return, you must complete Part D.

PRIMARY SOURCES OF INCOME:

List the name of each source of income that provided you with more than \$1,000 of income during 2013, the address of that source, and the amount of income received from that source. The income of your spouse need not be disclosed; however, if there is joint income to you and your spouse from property held by the entireties (such as interest or dividends from a bank account or stocks held by the entireties), you should include all of that income.

“Income” means the same as “gross income” for federal income tax purposes, including all income from whatever source derived, such as compensation for services, gross income from business, gains from property dealings, interest, rents, dividends, pensions, distributive share of partnership gross income, and alimony, but not child support. It includes items of income, regardless of whether they actually are taxable for federal income tax purposes, such as interest on municipal bonds. Where income is derived from a business activity (such as proprietorship, partnership, or property rentals), the amount of income stated on the form should reflect the net income to you from that business activity (as calculated for income tax purposes), rather than the amount of gross income. If the gross income from that business activity exceeded \$1,000, but the net did not, you should list the business activity as a source of income and indicate in the “amount” column that the net income did not exceed \$1,000.

Examples:

— If you owned stock in and were employed by a corporation and received more than \$1,000 of income (salary, commissions, dividends, interest from loans to the corporation, etc.) from the company,

then you should list the name of the company, its address, and the total amount of income received from it.

— If you were a partner in a law firm and your distributive share of partnership gross income exceeded \$1,000, then you should list the name of the firm, its address, and the amount of your net distributive share.

— If you were the sole proprietor of a retail gift business and your gross income from the business exceeded \$1,000, then you should list the name of the business, its address, and the amount of net income received from the business. If your net income from the business did not exceed \$1,000, you should list the name and address of the business and note in the “amount” column that net income was not more than \$1,000.

— If you received dividend or interest income from investments in stocks and bonds, you are required to list only each individual company from which you received more than \$1,000, rather than aggregating income from all of these investments.

— If more than \$1,000 of income was gain from the sale of property (not just the selling price), then you should list as a source of income the name of the purchaser, the purchaser’s address, and the amount of gain from the sale. If the purchaser’s identity is unknown, such as where securities listed on an exchange are sold through a brokerage firm, the source of income should be listed simply as “sale of (name of company) stock,” for example.

— If more than \$1,000 of your income was in the form of interest from one particular financial institution (aggregating interest from all CD’s, accounts, etc., at that institution), list the name of the institution, its address, and the amount of income from that institution.

SECONDARY SOURCES OF INCOME:

This part is intended to require the disclosure of major customers, clients, and other sources of income to businesses in which you own an interest. You will not have anything to report unless:

(1) You owned (either directly or indirectly in the form of an equitable or beneficial interest) during the disclosure period more than five percent (5%) of the total assets or capital stock of a business entity (a corporation, partnership, limited partnership, proprietorship, joint venture, trust, firm, etc., doing business in Florida); and

(2) You received more than \$1,000 in gross income from that business entity during the period.

If your ownership and gross income exceeded the two thresholds listed above, then for that business entity you must list every source of income to the business entity which exceeded ten percent (10%) of the business entity’s gross income (computed on the basis of the business entity’s most recently completed fiscal year), the source’s address, the source’s principal business activity, and the name of the business entity in which you owned an interest. You do not have to list the amount of income the business derived from that major source of income.

Examples:

— You are the sole proprietor of a dry cleaning business, from which you received more than \$1,000 in gross income last year. If only one customer, a uniform rental company, provided more than 10% of your dry cleaning business, you must list the name of your business, the name of the uniform rental company, its address, and its principal business activity (uniform rentals).

— You are a 20% partner in a partnership that owns a shopping mall and your gross partnership income exceeded \$1,000. You should list the name of the partnership, the name of each tenant of the mall

that provided more than 10% of the partnership’s gross income, the tenant’s address and principal business activity.

— You own an orange grove and sell all your oranges to one marketing cooperative (for a gross income exceeding \$1,000). You should list the name under which you operate the grove, the name of the cooperative, its address, and its principal business activity if your income met the thresholds.

PART E — INTERESTS IN SPECIFIED BUSINESSES

[Required by Sec. 112.3145(5), Fla. Stat.]

The types of businesses covered in this section of the disclosure form are **only**: state and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies (including insurance agencies); mortgage companies; credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies; utility companies; entities controlled by the Public Service Commission; and entities granted a franchise to operate by either a city or a county government.

In this part of the form you are required to disclose the fact that you owned during the disclosure period, an interest in, or held any of certain positions with, particular types of businesses listed above. You are required to make this disclosure if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period more than five percent (5%) of the total assets or capital stock of one of the types of business entities granted a privilege to operate in Florida that are listed above. You also must complete this part of the form for each of these types of businesses for which you are, or were at any time during 2013, an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process).

If you have or held such a position or ownership interest in one of these types of businesses, list (vertically for each business): the name of the business, its address and principal business activity, and the position held with the business (if any). Also, if you own(ed) more than a 5% interest in the business, as described above, you must indicate that fact and describe the nature of your interest.

End of instructions.

TITLE XXVII

RAILROADS AND OTHER REGULATED UTILITIES

CHAPTER 350

FLORIDA PUBLIC SERVICE COMMISSION

- 350.001 Legislative intent.
- 350.01 Florida Public Service Commission; terms of commissioners; vacancies; election and duties of chair; quorum; proceedings.
- 350.011 Florida Public Service Commission; jurisdiction; powers and duties.
- 350.03 Power of Governor to remove and to fill vacancies.
- 350.031 Florida Public Service Commission Nominating Council.
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350.001 Legislative intent.—The Florida Public Service Commission has been and shall continue to be an arm of the legislative branch of government. The Public Service Commission shall perform its duties independently. It is the desire of the Legislature that the

Governor participate in the appointment process of commissioners to the Public Service Commission. The Legislature accordingly delegates to the Governor a limited authority with respect to the Public Service Commission by authorizing him or her to participate in the selection of members only in the manner prescribed by s. 350.031.

History.—s. 1, ch. 78-426; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 527, ch. 95-148; s. 2, ch. 2005-132.

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

(1) The Florida Public Service Commission shall consist of five commissioners appointed pursuant to s. 350.031.

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

1. The vacancy created by the present term ending in January, 1981, shall be filled by appointment for a 4-year term and for 4-year terms thereafter; and

2. The vacancies created by the two present terms ending in January, 1979, shall be filled by appointment for a 3-year term and for 4-year terms thereafter.

(b) Two additional commissioners shall be appointed in the manner prescribed by s. 350.031 for 4-year terms beginning the first Tuesday after the first Monday in January, 1979, and successors shall be appointed for 4-year terms thereafter with each term beginning on January 2 of the year the term commences and ending 4 years later on January 1.

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

(3) Any person serving on the commission who seeks to be appointed or reappointed shall file with the nominating council no later than June 1 prior to the year in which his or her term expires a statement that he or she desires to serve an additional term.

(4) One member of the commission shall be elected by majority vote to serve as chair for a term of 2 years, beginning on January 2 of the first year of the term. A member may not serve two consecutive terms as chair.

(5) The primary duty of the chair is to serve as chief administrative officer of the commission; however, the chair may participate in any proceedings pending before the commission when administrative duties and time permit. In order to distribute the workload and expedite the commission's calendar, the chair, in addition to other administrative duties, has authority to assign the various

proceedings pending before the commission requiring hearings to two or more commissioners or to the commission's staff of hearing examiners under the supervision of the office of general counsel. Only those commissioners assigned to a proceeding requiring hearings are entitled to participate in the final decision of the commission as to that proceeding; provided, if only two commissioners are assigned to a proceeding requiring hearings and cannot agree on a final decision, the chair shall cast the deciding vote for final disposition of the proceeding. If more than two commissioners are assigned to any proceeding, a majority of the members assigned shall constitute a quorum and a majority vote of the members assigned shall be essential to final commission disposition of those proceedings requiring actual participation by the commissioners. If a commissioner becomes unavailable after assignment to a particular proceeding, the chair shall assign a substitute commissioner. In those proceedings assigned to a hearing examiner, following the conclusion of the hearings, the designated hearing examiner is responsible for preparing recommendations for final disposition by a majority vote of the commission. A petition for reconsideration shall be voted upon by those commissioners participating in the final disposition of the proceeding.

(6) A majority of the commissioners may determine that the full commission shall sit in any proceeding. The public counsel or a person regulated by the Public Service Commission and substantially affected by a proceeding may file a petition that the proceeding be assigned to the full commission. Within 15 days of receipt by the commission of any petition or application, the full commission shall dispose of such petition by majority vote and render a written decision thereon prior to assignment of less than the full commission to a proceeding. In disposing of such petition, the commission shall consider the overall general public interest and impact of the pending proceeding, including but not limited to the following criteria: the magnitude of a rate filing, including the number of customers affected and the total revenues requested; the services rendered to the affected public; the urgency of the requested action; the needs of the consuming public and the utility; value of service involved; the effect on consumer relations, regulatory policies, conservation, economy, competition, public health, and safety of the area involved. If the petition is denied, the commission shall set forth the grounds for denial.

(7) This section does not prohibit a commissioner, designated by the chair, from conducting a hearing as provided under ss. 120.569 and 120.57(1) and the rules of the commission adopted pursuant thereto.

History.—s. 1, ch. 4549, 1897; s. 1, ch. 4700, 1899; GS 2882; s. 10, ch. 7838, 1919; RGS 4607; CGL 6692; s. 1, ch. 63-279; s. 1, ch. 65-52; s. 2, ch. 78-426; s. 211, ch. 81-259; s. 2, ch. 81-318; s. 28, ch. 85-81; s. 6, ch. 87-50; s. 56, ch. 95-143; s. 528, ch. 95-148; s. 89, ch. 96-410; s. 1, ch. 2006-214; s. 31, ch. 2008-227.

350.011 Florida Public Service Commission; jurisdiction; powers and duties.—The state regulatory agency heretofore known as the Florida Railroad and Public Utilities Commission or Florida Public Utilities Commission shall be known and hereafter called Florida Public Service Commission, and all rights,

powers, duties, responsibilities, jurisdiction, and judicial powers now vested in said Railroad and Public Utilities Commission or said Florida Public Utilities Commission and the commissioners thereof are vested in the Florida Public Service Commission and the commissioners thereof.

History.—s. 1, ch. 24095, 1947; s. 1, ch. 63-279; s. 1, ch. 65-52; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 2, ch. 2006-214.

350.03 Power of Governor to remove and to fill vacancies.—The Governor shall have the same power to remove, suspend, or appoint to fill vacancies in the office of commissioners as in other offices, as set forth in s. 7, Art. IV of the State Constitution.

History.—s. 1, ch. 4700, 1899; GS 2884; RGS 4609; CGL 6694; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 33, ch. 2008-227.

350.031 Florida Public Service Commission Nominating Council.—

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

(b) All terms shall be for 4 years except those members of the House and Senate, who shall serve 2-year terms concurrent with the 2-year elected terms of House members. All terms of the members of the Public Service Commission Nominating Council existing on June 30, 2008, shall terminate upon the effective date of this act; however, such members may serve an additional term if reappointed by the Speaker of the House of Representatives or the President of the Senate. To establish staggered terms, appointments of members shall be made for initial terms to begin on July 1, 2008, with each appointing officer to appoint three legislator members, one of whom shall be a member of the minority party, to terms through the remainder of the 2-year elected terms of House members; one nonlegislator member to a 6-month term; one nonlegislator member to an 18-month term; and one nonlegislator member to a 42-month term. Thereafter, the terms of the nonlegislator members of the Public Service Commission Nominating Council shall begin on January 2 of the year the term commences and end 4 years later on January 1.

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

(d) Vacancies on the council shall be filled for the unexpired portion of the term in the same manner as original appointments to the council. A member may not be reappointed to the council, except for a member of the House of Representatives or the Senate who may

be appointed to two 2-year terms, members who are reappointed pursuant to paragraph (b), or a person who is appointed to fill the remaining portion of an unexpired term.

(2)(a) No member or spouse shall be the holder of the stocks or bonds of any company, other than through ownership of shares in a mutual fund, regulated by the commission, or any affiliated company of any company regulated by the commission, or be an agent or employee of, or have any interest in, any company regulated by the commission or any affiliated company of any company regulated by the commission, or in any firm which represents in any capacity either companies which are regulated by the commission or affiliates of companies regulated by the commission. As a condition of appointment to the council, each appointee shall affirm to the Speaker and the President his or her qualification by the following certification: "I hereby certify that I am not a stockholder, other than through ownership of shares in a mutual fund, in any company regulated by the commission or in any affiliate of a company regulated by the commission, nor in any way, directly or indirectly, in the employment of, or engaged in the management of any company regulated by the commission or any affiliate of a company regulated by the commission, or in any firm which represents in any capacity either companies which are regulated by the commission or affiliates of companies regulated by the commission."

This certification is made as condition to appointment to the Florida Public Service Commission Nominating Council.

(b) A member of the council may be removed by the Speaker of the House of Representatives and the President of the Senate upon a finding by the Speaker and the President that the council member has violated any provision of this subsection or for other good cause.

(c) If a member of the council does not meet the requirements of this subsection, the President of the Senate or the Speaker of the House of Representatives, as appropriate, shall appoint a legislative replacement.

(3) A majority of the membership of the council may conduct any business before the council. All meetings and proceedings of the council shall be staffed by the Office of Legislative Services and shall be subject to the provisions of ss. 119.07 and 286.011. Members of the council are entitled to receive per diem and travel expenses as provided in s. 112.061, which shall be funded by the Florida Public Service Regulatory Trust Fund. Applicants invited for interviews before the council may, in the discretion of the council, receive per diem and travel expenses as provided in s. 112.061, which shall be funded by the Florida Public Service Regulatory Trust Fund. The council shall establish policies and procedures to govern the process by which applicants are nominated.

(4) The council may spend a nominal amount, not to exceed \$10,000, to advertise a vacancy on the council, which shall be funded by the Florida Public Service Regulatory Trust Fund.

(5) A person may not be nominated to the Governor for appointment to the Public Service Commission until

the council has determined that the person is competent and knowledgeable in one or more fields, which shall include, but not be limited to: public affairs, law, economics, accounting, engineering, finance, natural resource conservation, energy, or another field substantially related to the duties and functions of the commission. The commission shall fairly represent the above-stated fields. Recommendations of the council shall be nonpartisan.

(6) It is the responsibility of the council to nominate to the Governor no fewer than three persons for each vacancy occurring on the Public Service Commission. The council shall submit the recommendations to the Governor by September 15 of those years in which the terms are to begin the following January, or within 60 days after a vacancy occurs for any reason other than the expiration of the term.

(7) The Governor shall fill a vacancy occurring on the Public Service Commission by appointment of one of the applicants nominated by the council only after a background investigation of such applicant has been conducted by the Florida Department of Law Enforcement. If the Governor has not made an appointment within 30 consecutive calendar days after the receipt of the recommendation, the council, by majority vote, shall appoint, within 30 days after the expiration of the Governor's time to make an appointment, one person from the applicants previously nominated to the Governor to fill the vacancy.

(8) Each appointment to the Public Service Commission shall be subject to confirmation by the Senate during the next regular session after the vacancy occurs. If the Senate refuses to confirm or fails to consider the Governor's appointment, the council shall initiate, in accordance with this section, the nominating process within 30 days.

(9) When the Governor makes an appointment to fill a vacancy occurring due to expiration of the term, and that appointment has not been confirmed by the Senate before the appointing Governor's term ends, a successor Governor may, within 30 days after taking office, recall the appointment and, prior to the first day of the next regular session, make a replacement appointment from the list provided to the previous Governor by the council. Such an appointment is subject to confirmation by the Senate at the next regular session following the creation of the vacancy to which the appointments are being made. If the replacement appointment is not timely made, or if the appointment is not confirmed by the Senate for any reason, the council, by majority vote, shall appoint, within 30 days after the Legislature adjourns sine die, one person from the applicants previously nominated to the Governor to fill the vacancy, and this appointee is subject to confirmation by the Senate during the next regular session following the appointment.

History.—s. 3, ch. 78-426; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 6, ch. 87-172; s. 1, ch. 90-272; s. 529, ch. 95-148; s. 31, ch. 98-136; s. 141, ch. 99-13; s. 40, ch. 2000-164; s. 3, ch. 2005-132; s. 34, ch. 2008-227.

350.04 Qualifications of commissioners.—A commissioner may not, at the time of appointment or during his or her term of office:

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

(2) Be employed by or engaged in any business activity with any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, by any public utility regulated by the commission, or by any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission.

History.—s. 1, ch. 4700, 1899; GS 2885; RGS 4610; CGL 6695; s. 1, ch. 65-422; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 2, ch. 90-272; s. 530, ch. 95-148.

350.041 Commissioners; standards of conduct.

(1) **STATEMENT OF INTENT.**—In addition to the provisions of part III of chapter 112, which are applicable to public service commissioners by virtue of their being public officers and full-time employees of the legislative branch of government, the conduct of public service commissioners shall be governed by the standards of conduct provided in this section. Nothing shall prohibit the standards of conduct from being more restrictive than part III of chapter 112. Further, this section shall not be construed to contravene the restrictions of part III of chapter 112. In the event of a conflict between this section and part III of chapter 112, the more restrictive provision shall apply.

(2) STANDARDS OF CONDUCT.—

(a) A commissioner may not accept anything from any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, from any public utility regulated by the commission, or from any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission. A commissioner may attend conferences and associated meals and events that are generally available to all conference participants without payment of any fees in addition to the conference fee. Additionally, while attending a conference, a commissioner may attend meetings, meals, or events that are not sponsored, in whole or in part, by any representative of any public utility regulated by the commission and that are limited to commissioners only, committee members, or speakers if the commissioner is a member of a committee of the association of regulatory agencies that organized the conference or is a speaker at the conference. It is not a violation of this paragraph for a commissioner to attend a conference for which conference participants who are employed by a utility regulated by the commission have paid a higher conference registration fee than the commissioner, or to attend a meal or event that is generally available to all conference participants without payment of any fees in addition to the conference fee and that is sponsored, in whole or in part, by a utility regulated by the commission. If, during the course of an investigation by the Commission on Ethics into an alleged violation of this paragraph, allegations are made as to the identity of the person giving or providing

the prohibited gift, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person gave or provided a prohibited gift, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

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

(c) A commissioner may not have any financial interest, other than shares in a mutual fund, in any public utility regulated by the commission, in any business entity which, either directly or indirectly, owns or controls any public utility regulated by the commission, or in any business entity which, either directly or indirectly, is an affiliate or subsidiary of any public utility regulated by the commission. If a commissioner acquires any financial interest prohibited by this section during his or her term of office as a result of events or actions beyond the commissioner's control, he or she shall immediately sell such financial interest or place such financial interest in a blind trust at a financial institution. A commissioner may not attempt to influence, or exercise any control over, decisions regarding the blind trust.

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

(e) A commissioner may not serve as the representative of any political party or on any executive committee or other governing body of a political party; serve as an executive officer or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; engage on behalf of any candidate for public office in the solicitation of votes or other activities on behalf of such candidacy; or become a candidate for election to any public office without first resigning from office.

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

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

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

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

(3) The Commission on Ethics shall accept and investigate any alleged violations of this section pursuant to the procedures contained in ss. 112.322-112.3241. The Commission on Ethics shall provide the Governor and the Florida Public Service Commission Nominating Council with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112. A public service commissioner or a member of the Florida Public Service Commission Nominating Council may request an advisory opinion from the Commission on Ethics, pursuant to s. 112.322(3)(a), regarding the standards of conduct or prohibitions set forth in this section and ss. 350.031, 350.04, and 350.042.

History.—s. 3, ch. 90-272; s. 531, ch. 95-148; s. 90, ch. 96-410; s. 4, ch. 2005-132.

350.042 Ex parte communications.—

(1) A commissioner should accord to every person who is legally interested in a proceeding, or the person's lawyer, full right to be heard according to law, and, except as authorized by law, shall neither initiate nor consider ex parte communications concerning the merits, threat, or offer of reward in any proceeding other than a proceeding under s. 120.54 or s. 120.565, workshops, or internal affairs meetings. No individual shall discuss ex parte with a commissioner the merits of any issue that he or she knows will be filed with the commission within 90 days. The provisions of this subsection shall not apply to commission staff.

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

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

(4) If a commissioner knowingly receives an ex parte communication relative to a proceeding other than as set forth in subsection (1), to which he or she is assigned, he or she must place on the record of the proceeding copies of all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall give written notice to all parties to the communication that such matters have been placed on the record. Any party who desires to respond to an ex

parte communication may do so. The response must be received by the commission within 10 days after receiving notice that the ex parte communication has been placed on the record. The commissioner may, if he or she deems it necessary to eliminate the effect of an ex parte communication received by him or her, withdraw from the proceeding, in which case the chair shall substitute another commissioner for the proceeding.

(5) Any individual who makes an ex parte communication shall submit to the commission a written statement describing the nature of such communication, to include the name of the person making the communication, the name of the commissioner or commissioners receiving the communication, copies of all written communications made, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made. The commission shall place on the record of a proceeding all such communications.

(6) Any commissioner who knowingly fails to place on the record any such communications, in violation of the section, within 15 days of the date of such communication is subject to removal and may be assessed a civil penalty not to exceed \$5,000.

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

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

(c) If a commissioner fails or refuses to pay the Commission on Ethics any civil penalties assessed pursuant to the provisions of this section, the Commission on Ethics may bring an action in any circuit court to enforce such penalty.

(d) If, during the course of an investigation by the Commission on Ethics into an alleged violation of this section, allegations are made as to the identity of the person who participated in the ex parte communication, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person participated in the ex parte communication, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.

History.—s. 4, ch. 90-272; s. 532, ch. 95-148; s. 5, ch. 2005-132.

350.043 Enforcement and interpretation.—Any violation of s. 350.031, s. 350.04, s. 350.041, s. 350.042, or s. 350.0605 by a commissioner, former commissioner, former employee, or Public Service Commission Nominating Council member shall be punishable as provided in ss. 112.317 and 112.324. The Commission on Ethics is hereby given the power and authority to investigate complaints of violation of

this chapter in the manner provided in part III of chapter 112, as if this section were included in that part. A commissioner may request an advisory opinion from the Commission on Ethics as provided by s. 112.322(3)(a).

History.—s. 5, ch. 90-272; s. 13, ch. 94-277.

350.05 Oath of office.—Before entering upon the duties of his or her office each commissioner shall subscribe to the following oath: “I do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida; that I am qualified to hold office under the constitution of the state, and that I will well and faithfully perform at all times the duties of Florida Public Service Commissioner, on which I am now about to enter in a professional, independent, objective, and nonpartisan manner; that I do not have any financial, employment, or business interest which is prohibited by chapter 350, Florida Statutes; and that I will abide by the standards of conduct required of me by chapters 112 and 350, Florida Statutes, so help me God.” In case any commissioner should in any way become disqualified, he or she shall at once remove such disqualification or resign, and upon his or her failure to do so, he or she shall be suspended from office by the Governor and dealt with as provided by law.

History.—s. 1, ch. 4700, 1899; GS 2886; RGS 4611; CGL 6696; s. 1, ch. 63-279; s. 1, ch. 65-52; s. 2, ch. 65-422; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 6, ch. 90-272; s. 533, ch. 95-148.

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

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

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

(3) The commissioners may employ clerical, technical, and professional personnel reasonably necessary for the performance of their duties and may also employ one or more persons capable of stenographic court reporting, to be known as the official reporters of the commission.

(4) When needed, the commission may engage supplementary qualified reporters at their usual rate of compensation; however, the supplementary reporters shall furnish the commission the original certified transcripts of testimony taken by them.

(5) The commission shall make available to the public counsel the original copy of all transcripts for use and study in the commission offices. If the commission makes any copies of transcripts for internal use and if the public counsel has so requested in writing to the clerk of the commission, the commission shall supply the public counsel with a copy of the transcript at no charge.

(6) The commission shall collect for copying, examining, comparing, correcting, verifying, certifying, or furnishing orders, records, transcripts of testimony, papers, or other instruments no more than the same fees that are allowed clerks of the circuit courts of this

state. In cases where the fee would amount to less than \$1, no fee shall be charged.

(7) Copies of commission orders furnished to public officials, newspapers, periodical publications, federal agencies, state officials of other states, and parties to the proceeding in which the order was entered and their attorneys shall be without charge. However, the commission may in its discretion charge fees for the furnishing of more than one copy of any order to any of the foregoing.

(8) The commission shall keep accounting records in which all fees collected by it as provided for herein shall be recorded, together with the amount and purpose for which collected. The accounting records shall be public records. All moneys collected pursuant to this section by the commission shall be deposited in the State Treasury to the credit of the Florida Public Service Regulatory Trust Fund.

History.—s. 2, ch. 4700, 1899; GS 2887; s. 1, ch. 5625, 1907; s. 1, ch. 7811, 1919; RGS 4612; s. 1, ch. 11365, 1925; s. 2, ch. 12218, 1927; CGL 6697; s. 1, ch. 15720, 1931; s. 2, ch. 75-109; s. 2, ch. 81-318; s. 9, ch. 85-61; s. 6, ch. 87-50; s. 23, ch. 87-225; s. 534, ch. 95-148; s. 377, ch. 2003-261; s. 5, ch. 2006-214.

350.0603 Rulemaking authority and procedures for purchases.—

The Florida Public Service Commission may adopt rules and procedures for purchases of commodities and services, including procurement of vehicles, office space, and contractual services necessary for efficient operation. These procedures must recognize that fair and open competition is a basic tenet of public procurement and that both documentation of the acts taken and effective monitoring mechanisms are important to the process.

History.—s. 1, ch. 98-42.

350.0605 Former commissioners and employees; representation of clients before commission.

(1) Any former commissioner of the Public Service Commission is prohibited from appearing before the commission representing any client or any industry regulated by the Public Service Commission for a period of 2 years following termination of service on the commission.

(2) Any former employee of the commission is prohibited from appearing before the commission representing any client regulated by the Public Service Commission on any matter which was pending at the time of termination and in which such former employee had participated.

(3) For a period of 2 years following termination of service on the commission, a former member may not accept employment by or compensation from a business entity which, directly or indirectly, owns or controls a public utility regulated by the commission, from a public utility regulated by the commission, from a business entity which, directly or indirectly, is an affiliate or subsidiary of a public utility regulated by the commission or is an actual business competitor of a local exchange company or public utility regulated by the commission and is otherwise exempt from regulation by the commission under ss. 364.02(13) and 366.02(1), or from a business entity or trade association that has been a party to a commission proceeding within the 2 years preceding the member's termination of

service on the commission. This subsection applies only to members of the Florida Public Service Commission who are appointed or reappointed after May 10, 1993.

History.—s. 4, ch. 78-426; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 1, ch. 93-201; s. 142, ch. 99-13; s. 24, ch. 2003-32; s. 24, ch. 2005-132; s. 58, ch. 2011-36; s. 35, ch. 2011-64.

350.061 Public Counsel; appointment; oath; restrictions on Public Counsel and his or her employees.—

(1) The committee designated by joint rule of the Legislature or by agreement between the President of the Senate and the Speaker of the House of Representatives as the Committee on Public Counsel Oversight shall appoint a Public Counsel to represent the general public of Florida before the Florida Public Service Commission. The Public Counsel shall be an attorney admitted to practice before the Florida Supreme Court and shall serve at the pleasure of the Committee on Public Counsel Oversight, subject to biennial reconfirmation by the committee. The Public Counsel shall perform his or her duties independently. Vacancies in the office shall be filled in the same manner as the original appointment.

(2) The Public Counsel shall take and subscribe to the oath of office required of state officers by the State Constitution.

(3) No officer or full-time employee of the Public Counsel shall actively engage in any other business or profession; serve as the representative of any political party or on any executive committee or other governing body thereof; serve as an executive, officer, or employee of any political party, committee, organization, or association; receive remuneration for activities on behalf of any candidate for public office; or engage on behalf of any candidate for public office in the solicitation of votes or other activities in behalf of such candidacy. Neither the Public Counsel nor any employee of the Public Counsel shall become a candidate for election to public office unless he or she shall first resign from his or her office or employment.

History.—s. 1, ch. 74-195; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 535, ch. 95-148; s. 6, ch. 2005-132; s. 35, ch. 2008-227; s. 29, ch. 2011-34.

350.0611 Public Counsel; duties and powers.

It shall be the duty of the Public Counsel to provide legal representation for the people of the state in proceedings before the commission and in proceedings before counties pursuant to s. 367.171(8). The Public Counsel shall have such powers as are necessary to carry out the duties of his or her office, including, but not limited to, the following specific powers:

(1) To recommend to the commission or the counties, by petition, the commencement of any proceeding or action or to appear, in the name of the state or its citizens, in any proceeding or action before the commission or the counties and urge therein any position which he or she deems to be in the public interest, whether consistent or inconsistent with positions previously adopted by the commission or the counties, and utilize therein all forms of discovery available to attorneys in civil actions generally, subject to protective orders of the commission or the counties which shall be reviewable by summary procedure in the circuit courts of this state;

(2) To have access to and use of all files, records, and data of the commission or the counties available to any other attorney representing parties in a proceeding before the commission or the counties;

(3) In any proceeding in which he or she has participated as a party, to seek review of any determination, finding, or order of the commission or the counties, or of any hearing examiner designated by the commission or the counties, in the name of the state or its citizens;

(4) To prepare and issue reports, recommendations, and proposed orders to the commission, the Governor, and the Legislature on any matter or subject within the jurisdiction of the commission, and to make such recommendations as he or she deems appropriate for legislation relative to commission procedures, rules, jurisdiction, personnel, and functions; and

(5) To appear before other state agencies, federal agencies, and state and federal courts in connection with matters under the jurisdiction of the commission, in the name of the state or its citizens.

History.—s. 1, ch. 74-195; s. 1, ch. 77-174; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 536, ch. 95-148; s. 12, ch. 2000-350; s. 2, ch. 2001-145.

350.0612 Public Counsel; location.—The Public Counsel shall maintain his or her office in Leon County on the premises of the commission or, if suitable space there cannot be provided, at such other place convenient to the offices of the commissioners as will enable him or her to carry out expeditiously the duties and functions of his or her office.

History.—s. 1, ch. 74-195; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 537, ch. 95-148.

350.0613 Public Counsel; employees; receipt of pleadings.—The committee may authorize the Public Counsel to employ clerical and technical assistants whose qualifications, duties, and responsibilities the committee shall from time to time prescribe. The committee may from time to time authorize retention of the services of additional attorneys or experts to the extent that the best interests of the people of the state will be better served thereby, including the retention of expert witnesses and other technical personnel for participation in contested proceedings before the commission. The commission shall furnish the Public Counsel with copies of the initial pleadings in all proceedings before the commission, and if the Public Counsel intervenes as a party in any proceeding he or she shall be served with copies of all subsequent pleadings, exhibits, and prepared testimony, if used. Upon filing notice of intervention, the Public Counsel shall serve all interested parties with copies of such notice and all of his or her subsequent pleadings and exhibits.

History.—s. 1, ch. 74-195; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 538, ch. 95-148.

350.0614 Public Counsel; compensation and expenses.—

(1) The salaries and expenses of the Public Counsel and his or her employees shall be allocated by the committee only from moneys appropriated to the Public Counsel by the Legislature.

(2) The Legislature declares and determines that the Public Counsel is under the legislative branch of

government within the intention of the legislation as expressed in chapter 216, and no power shall be in the Executive Office of the Governor or its successor to release or withhold funds appropriated to it, but the same shall be available for expenditure as provided by law.

(3) Neither the Executive Office of the Governor nor the Department of Management Services or its successor shall have power to determine the number, or fix the compensation, of the employees of the Public Counsel or to exercise any manner of control over them.

History.—s. 1, ch. 74-195; s. 120, ch. 79-190; s. 2, ch. 81-318; s. 6, ch. 87-50; s. 121, ch. 92-279; s. 55, ch. 92-326; s. 539, ch. 95-148; s. 7, ch. 2005-132; s. 36, ch. 2008-227; s. 30, ch. 2011-34.

350.111 “Regulated company” defined.—As used in ss. 350.111-350.117 and ss. 350.121-350.128, “regulated company” means any public utility as defined in s. 366.02 or any person holding a valid and current certificate from the commission under chapter 351, chapter 364, chapter 365, or chapter 367.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 6, ch. 87-50; s. 57, ch. 95-143.

350.113 Florida Public Service Regulatory Trust Fund; moneys to be deposited therein.—

(1) There is hereby created in the State Treasury a special fund to be designated as the “Florida Public Service Regulatory Trust Fund” which shall be used in the operation of the commission in the performance of the various functions and duties required of it by law.

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

(3) Each regulated company under the jurisdiction of the commission, which company was in operation for the preceding 6-month period, shall pay to the commission within 30 days following the end of each 6-month period, commencing June 30, 1977, a fee based upon the gross operating revenues for such period. The fee shall, to the extent practicable, be related to the cost of regulating such type of regulated company. Differences, if any, between the amount paid in any 6-month period and the amount actually determined by the commission to be due shall, upon notification by the commission, be immediately paid or refunded. Each regulated company which is subject to the jurisdiction of the commission, but which did not operate under the commission’s jurisdiction during the entire preceding 6-month period, shall, within 30 days after the close of the first 6-month period during which it commenced operations under, or became subject to, the jurisdiction of the commission, pay to the commission the prescribed fee based upon its gross operating revenues derived from intrastate business during those months or parts of months in which the regulated company did operate during such 6-month

period. In no event shall payments under this section be less than \$25 annually.

(4) The commission shall provide each regulated company with written notice of the date that payment of the fee is due at least 45 days prior to such date. If any regulated company fails to pay the required fee by such date, the commission shall estimate the amount of fee due from such information as it may be able to obtain from any source and shall add 5 percent of such amount to the fee as a penalty if the failure is for not more than 30 days, with an additional 5 percent for each additional 30 days or fraction thereof during the time in which the failure continues, not to exceed a total penalty of 25 percent. The commission shall collect the fee and penalty, plus interest and all costs of collection, from the regulated company. However, no penalty shall be added to the fee if a return is made and the fee is paid before the date fixed in the notice given by the commission.

(5) The commission, for good cause shown by written request, may extend for a period not to exceed 30 days the time for paying any fee or for filing any report related thereto. If an extension is granted, there shall be collected a charge of 0.75 percent of the fee to be remitted for an extension of 15 days or less, or a charge of 1.5 percent of the fee for an extension of more than 15 days. No other penalty or interest shall be collected if such fee is remitted within the extension time granted. In lieu of paying the interest charge imposed by this subsection, a regulated company may remit an estimated amount of fee by the 30th day following a 6-month period. Any regulated company which remits an estimated fee payment by such date shall be granted a 30-day extension period in which to file and remit the actual fee due without the interest charge provided hereunder being imposed, unless the estimated fee payment remitted is less than 90 percent of the actual fee due for such period.

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

(7) Notwithstanding the provisions of s. 350.111, as used in this section only, the term “regulated company” includes any rural electric cooperative or municipal electric utility.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 15, ch. 83-339; s. 6, ch. 87-50; s. 45, ch. 91-221; s. 6, ch. 2006-214.

350.115 Uniform systems and classifications of accounts.—The commission may prescribe by rule uniform systems and classifications of accounts for each type of regulated company and approve or establish adequate, fair, and reasonable depreciation rates and charges.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 6, ch. 87-50; s. 6, ch. 2003-5.

350.117 Reports; audits.—

(1) The commission may require such regular or emergency reports, including, but not limited to, financial reports, as the commission deems necessary to fulfill its obligations under the law.

(2) The commission may perform management and operation audits of any regulated company. The commission may consider the results of such audits in establishing rates; however, the company shall not be denied due process as a result of the use of any such management or operation audit.

(3) As used in this section, “management and operation audit” means an appraisal, by a public accountant or other professional person, of management performance, including a testing of adherence to governing policy and profit capability; adequacy of operating controls and operating procedures; and relations with employees, customers, the trade, and the public generally.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 6, ch. 87-50; s. 7, ch. 2006-214.

350.121 Commission inquiries; confidentiality of business material.—If the commission undertakes an inquiry, any records, documents, papers, maps, books, tapes, photographs, files, sound recordings, or other business material, regardless of form or characteristics, obtained by the commission incident to the inquiry are considered confidential and exempt from s. 119.07(1) while the inquiry is pending. If at the conclusion of an inquiry the commission undertakes a formal proceeding, any matter determined by the commission or by a judicial or administrative body, federal or state, to be trade secrets or proprietary confidential business information coming into its possession pursuant to such inquiry shall be considered confidential and exempt from s. 119.07(1). Such material may be used in any administrative or judicial proceeding so long as the confidential or proprietary nature of the material is maintained.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 6, ch. 87-50.

350.123 Oaths; depositions; protective orders. The commission may administer oaths, take depositions, issue protective orders, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence necessary for the purpose of any investigation or proceeding. Challenges to, and enforcement of, such subpoenas and orders shall be handled as provided in s. 120.569.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 6, ch. 87-50; s. 91, ch. 96-410.

350.124 Compelled testimony.—If any person called to testify in a commission proceeding shall refuse to testify because of a claim of possible self-incrimination, the commission, after consultation with the appropriate state attorney, may apply to the chief judge of the appropriate judicial circuit for a judicial grant of immunity ordering the testimony of such person notwithstanding his or her objection, but in such case no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal prosecution.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 6, ch. 87-50; s. 540, ch. 95-148.

350.125 Administrative law judges.—Any provision of law to the contrary notwithstanding, the commission shall utilize administrative law judges of the Division of Administrative Hearings of the Department of Management Services to conduct hearings of the commission not assigned to members of the commission.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 6, ch. 87-50; s. 122, ch. 92-279; s. 55, ch. 92-326; s. 92, ch. 96-410.

350.127 Penalties; rules; execution of contracts.

(1) The commission may impose upon any regulated company that is found to have refused to comply with or willfully violated any lawful rule or order of the commission, or any statute administered by the commission, a penalty for each such offense of not more than \$5,000, to be fixed, imposed, and collected by the commission, or the commission may, for any such violation, amend, suspend, or revoke any certificate issued by the commission. Each day that such refusal or violation continues shall constitute a separate offense. Each penalty shall be a lien upon the real and personal property of the regulated company, enforceable by the commission as a statutory lien under chapter 85. The net proceeds from the enforcement of any such lien shall be deposited in the General Revenue Fund.

(2) The commission is authorized to adopt, by affirmative vote of a majority of the commission, rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of law conferring duties upon it.

(3) The commission may designate one or more employees to execute contracts on behalf of the commission.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 6, ch. 87-50; s. 71, ch. 98-200.

350.128 Judicial review.—

(1) As authorized by s. 3(b)(2), Art. V of the State Constitution, the Supreme Court shall, upon petition, review any action of the commission relating to rates or service of utilities providing electric, gas, or telephone service. The District Court of Appeal, First District, shall, upon petition, review any other action of the commission.

(2) Notice of such review shall be given by the petitioner to all parties who entered appearances of record in the proceedings before the commission in which the order sought to be reviewed was made.

(3) Such parties may file briefs in support of their interests, as such interests may appear, within the time and in the manner provided by the Florida Rules of Appellate Procedure.

(4) Such parties shall be entitled as a matter of right to make oral argument in support of their interests, as such interests may appear, in any case in which oral argument is granted by the court on the application of the petitioner or the respondent.

History.—ss. 3, 6, ch. 80-289; ss. 2, 3, ch. 81-318; s. 6, ch. 87-50.

350.81 Communications services offered by governmental entities.—

(1) As used in this section, the term:

(a) “Advanced service” means high-speed-Internet-access-service capability in excess of 200 kilobits per

second in the upstream or the downstream direction, including any service application provided over the high-speed-access service or any information service as defined in 47 U.S.C. s. 153(20).

(b) "Cable service" has the same meaning as in 47 U.S.C. s. 522(6).

(c) "Communications services" includes any "advanced service," "cable service," or "telecommunications service" and shall be construed in the broadest sense.

(d) "Enterprise fund" means a separate fund to account for the operation of communications services by a local government, established and maintained in accordance with generally accepted accounting principles as prescribed by the Governmental Accounting Standards Board.

(e) "Governmental entity" means any political subdivision as defined in s. 1.01, including any county, municipality, special district, school district, utility authority or other authority or any instrumentality, agency, unit or department thereof. The term does not include an independent special district created before 1970 which has been granted express legislative authority to provide a communications service and which does not sell a communications service outside its district boundaries.

(f) "Provide," "providing," "provision," or "provisioning" means offering or supplying a communications service for a fee or other consideration to a person, including any portion of the public or private provider, but does not include service by an entity to itself or to any other governmental entity.

(g) "Subscriber" means a person who receives a communications service.

(h) "Telecommunications services" means the transmission of signs, signals, writing, images, sounds, messages, data, or other information of the user's choosing, by wire, radio, light waves, or other electromagnetic means, without change in the form or content of the information as sent and received by the user and regardless of the facilities used, including, without limitation, wireless facilities.

(2)(a) A governmental entity that proposes to provide a communications service shall hold no less than two public hearings, which shall be held not less than 30 days apart. At least 30 days before the first of the two public hearings, the governmental entity must give notice of the hearing in the predominant newspaper of general circulation in the area considered for service. At least 40 days before the first public hearing, the governmental entity must electronically provide notice to the Department of Revenue and the Public Service Commission, which shall post the notice on the department's and the commission's website to be available to the public. The Department of Revenue shall also send the notice by United States Postal Service to the known addresses for all dealers of communications services registered with the department under chapter 202 or provide an electronic notification, if the means are available, within 10 days after receiving the notice. The notice must include the time and place of the hearings and must state that the purpose of the hearings is to consider whether the governmental entity

will provide communications services. The notice must include, at a minimum, the geographic areas proposed to be served by the governmental entity and the services, if any, which the governmental entity believes are not currently being adequately provided. The notice must also state that any dealer who wishes to do so may appear and be heard at the public hearings.

(b) At a public hearing required by this subsection, a governmental entity must, at a minimum, consider:

1. Whether the service that is proposed to be provided is currently being offered in the community and, if so, whether the service is generally available throughout the community.

2. Whether a similar service is currently being offered in the community and, if so, whether the service is generally available throughout the community.

3. If the same or similar service is not currently offered, whether any other service provider proposes to offer the same or a similar service and, if so, what assurances that service provider is willing or able to offer regarding the same or similar service.

4. The capital investment required by the governmental entity to provide the communications service, the estimated realistic cost of operation and maintenance and, using a full cost-accounting method, the estimated realistic revenues and expenses of providing the service and the proposed method of financing.

5. The private and public costs and benefits of providing the service by a private entity or a governmental entity, including the affect on existing and future jobs, actual economic development prospects, tax-base growth, education, and public health.

(c) At one or more of the public hearings under this subsection, the governmental entity must make available to the public a written business plan for the proposed communications service venture containing, at a minimum:

1. The projected number of subscribers to be served by the venture.

2. The geographic area to be served by the venture.

3. The types of communications services to be provided.

4. A plan to ensure that revenues exceed operating expenses and payment of principal and interest on debt within 4 years.

5. Estimated capital and operational costs and revenues for the first 4 years.

6. Projected network modernization and technological upgrade plans, including estimated costs.

(d) After making specific findings regarding the factors in paragraphs (b) and (c), the governmental entity may authorize providing a communications service by a majority recorded vote and by resolution, ordinance, or other formal means of adoption.

(e) The governing body of a governmental entity may issue one or more bonds to finance the capital costs for facilities to provide a communications service. However:

1. A governmental entity may only pledge revenues in support of the issuance of any bond to finance providing a communications service:

a. Within the county in which the governmental entity is located;

b. Within an area in which the governmental entity provides electric service outside its home county under an electric service territorial agreement approved by the Public Service Commission before the effective date of this act; or

c. If the governmental entity is a municipality or special district, within its corporate limits or in an area in which the municipality or special district provides water, wastewater, electric, or natural gas service, or within an urban service area designated in a comprehensive plan, whichever is larger, unless the municipality or special district obtains the consent by formal action of the governmental entity within the boundaries of which the municipality or special district proposes to provide service. For consent to be effective, any governmental entity from which consent is sought shall be located within the county in which the governmental entity is located or that county.

2. Revenue bonds issued in order to finance providing a communications service are not subject to the approval of the electors if the revenue bonds mature within 15 years. Revenue bonds issued to finance providing a communications service that does not mature within 15 years must be approved by the electors. The election must be conducted as specified in chapter 100.

(f) A governmental entity providing a communications service may not price any service below the cost of providing the service by subsidizing the communications service with moneys from rates paid by subscribers of a noncommunications services utility or from any other revenues. The cost standard for determining cross-subsidization is whether the total revenue from the service is less than the total long-run incremental cost of the service. Total long-run incremental cost means service-specific volume and nonvolume-sensitive costs.

(g) A governmental entity providing a communications service must comply with the requirements of s. 218.32 and shall keep separate and accurate books and records, maintained in accordance with generally accepted accounting principles, of a governmental entity's communication service, and they shall be made available for any audits of the books and records conducted under applicable law. To facilitate equitable distribution of indirect costs, a local government shall develop and follow a cost-allocation plan, which is a procedure for allocating direct and indirect costs and which is generally developed in accordance with OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Government, published by the United States Office of Management and Budget.

(h) The governmental entity shall establish an enterprise fund to account for its operation of communications services.

(i) The governmental entity shall adopt separate operating and capital budgets for its communications services.

(j) A governmental entity may not use its powers of eminent domain under chapter 73 solely or primarily for the purpose of providing a communications service.

(k) The governmental entity shall conduct an annual review at a formal public meeting to consider the

progress the governmental entity is making toward reaching its business plan goals and objectives for providing communication services. At the public meeting the governmental entity shall review the related revenues, operating expenses, and payment of interest on debt.

(l) If, after 4 years following the initiation of the provision of communications services by a governmental entity or 4 years after the effective date of this act, whichever is later, revenues do not exceed operating expenses and payment of principal and interest on the debt for a governmental entity's provision of communications services, no later than 60 days following the end of the 4-year period a governmental entity shall hold a public hearing at which the governmental entity shall do at least one of the following:

1. Approve a plan to cease providing communications services;

2. Approve a plan to dispose of the system the governmental entity is using to provide communications services and, accordingly, to cease providing communications services;

3. Approve a plan to create a partnership with a private entity in order to achieve operations in which revenues exceed operating expenses and payment of principal and interest on debt; or

4. Approve the continuing provision of communications services by a majority vote of the governing body of the governing authority.

(3)(a) A governmental entity that provides a cable or video service shall comply with the Cable Communications Policy Act of 1984, 47 U.S.C. ss. 521 et seq., the regulations issued by the Federal Communications Commission under the Cable Communications Policy Act of 1984, 47 U.S.C. ss. 521 et seq., and all applicable state and federal rules and regulations, including, but not limited to, those provisions of chapters 202, 212, 337, and 610 that apply to a provider of the services.

(b) A governmental entity that provides a telecommunications service or advanced service must comply, if applicable, with chapter 364 and rules adopted by the Public Service Commission; chapter 166; and all applicable state and federal rules and regulations, including, but not limited to, those provisions of chapters 202, 212, and 337 which apply to a provider of the services.

(c) A governmental entity may not exercise its power or authority in any area, including zoning or land use regulation, to require any person, including residents of a particular development, to use or subscribe to any communication service of a governmental entity.

(d) A governmental entity shall apply its ordinances, rules, and policies, and exercise any authority under state or federal laws, including, but not limited to, those relating to the following subjects and without discrimination as to itself when providing a communications service or to any private provider of communications services:

1. Access to public rights-of-way; and

2. Permitting, access to, use of, and payment for use of governmental entity-owned poles. The governmental entity is subject to the same terms, conditions, and fees, if any, for access to government-owned poles

which the governmental entity applies to a private provider for access.

(4)(a) If a governmental entity was providing, as of April 1, 2005, advanced services, cable services, or telecommunications services, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), or paragraph (2)(k) in order to continue to provide advanced services, cable services, or telecommunications services, respectively, but it must comply with and be subject to all other provisions of this section.

(b) If a governmental entity, as of April 1, 2005, had issued debt pledging revenues from an advanced service, cable service, or telecommunications service, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), or paragraph (2)(k) in order to provide advanced services, cable services, or telecommunications services, respectively, but it must comply with and be subject to all other provisions of this section.

(c) If a governmental entity, as of April 1, 2005, has purchased equipment specifically for the provisioning of advanced service, cable service, or telecommunication service, and, as of May 6, 2005, has a population of less than 7,500, and has authorized by formal action the providing of an advanced service, cable service, or telecommunication service, then it is not required to comply with paragraph (2)(a), paragraph (2)(b), paragraph (2)(c), paragraph (2)(d), sub-subparagraph (2)(e)1.c., paragraph (2)(f), or paragraph (2)(k) in order to provide advanced service, cable service, or telecommunication service, respectively, but it must comply with and be subject to all other provisions of this section.

This subsection does not relieve a governmental entity from complying with subsection (5).

(5) Notwithstanding s. 542.235 or any other law, a governmental entity that provides a communications service is subject to the same prohibitions applicable to private providers under ss. 542.18 and 542.19 as it

relates to providing a communications service. This section does not limit the availability to any party of any remedy or defense under state or federal anti-trust laws.

(6) To ensure the safe and secure transportation of passengers and freight through an airport facility, as defined in s. 159.27(17), an airport authority or other governmental entity that provides or is proposing to provide communications services only within the boundaries of its airport layout plan, as defined in s. 333.01(6), to subscribers which are integral and essential to the safe and secure transportation of passengers and freight through the airport facility, is exempt from this section. An airport authority or other governmental entity that provides or is proposing to provide shared-tenant service under ¹s. 364.339, but not dial tone enabling subscribers to complete calls outside the airport layout plan, to one or more subscribers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility is exempt from this section. An airport authority or other governmental entity that provides or is proposing to provide communications services to one or more subscribers within its airport layout plan which are not integral and essential to the safe and secure transportation of passengers and freight through the airport facility, or to one or more subscribers outside its airport layout plan, is not exempt from this section. By way of example and not limitation, the integral, essential subscribers may include airlines and emergency service entities, and the nonintegral, nonessential subscribers may include retail shops, restaurants, hotels, or rental car companies.

(7) This section does not alter or affect any provision in the charter, code, or other governing authority of a governmental entity that imposes additional or different requirements on provision of communications service by a governmental entity. Any such provisions shall apply in addition to the applicable provisions in this section.

¹History.—s. 8, ch. 2005-132; s. 8, ch. 2007-29.

¹Note.—Repealed by s. 38, ch. 2011-36.

FLORIDA PUBLIC SERVICE COMMISSION NOMINATING COUNCIL

RULES OF PROCEDURE

I. Initial Procedure:

Whenever a vacancy occurs on the Public Service Commission, the nominating council shall actively seek, receive and review applications submitted by persons who voluntarily request consideration and by those persons who otherwise consent to such consideration by the council. All persons under consideration for nomination to the Public Service Commission shall submit an application to the council on an approved form as determined by the council. The application shall include a signed waiver of confidentiality of all materials necessary for adequate investigation of each applicant.

II. Initial Screening:

For each vacancy to which nominations shall be made, the council shall establish a cut-off date for receipt of applications. No application shall be considered that arrives at the council after the cut-off date. The council shall vote to designate a list of "most qualified applicants" by a vote of no less than four members of the council. There shall be no limit upon the number of persons so designated, but all so designated shall appear from available information to possess all qualifications prescribed by law for Public Service Commission members, as well as those personal qualities and attributes of character, experience, temperament, professional competence and other personal characteristics essential to commission membership.

III. Further Investigation; Interviews:

Upon selection by the council of a list of applicants found upon preliminary evaluation to be "most qualified" and deserving of further consideration, the council may further investigate the fitness and qualifications of each "most qualified" applicant. In the course of such investigations, the council may utilize all sources reasonably available within the time permitted by law. In addition, the council shall invite the applicants deemed "most qualified" to appear before the council to respond to questions deemed pertinent to each person's fitness and qualifications to hold a seat on the Public Service Commission. Each such "most qualified" applicant shall be permitted to testify in his or her own behalf at the interview if he or she so desires. Following an applicant's interview, the council may conduct further investigation, if necessary, of that applicant and may accept oral or written testimony or input from the public. The purpose of investigations and interviews is to determine if applicants possess all qualifications prescribed by law and those additional attributes described in Section VI hereof.

IV. Voting:

Seven members shall constitute a quorum. No business shall be conducted by the council in the absence of a quorum.

All motions shall be decided by a majority of those members present, except for final selection of nominees, which shall be governed by the provisions in Section V.

V. Final Selection of Nominees:

Public Service Commissioner

Upon conclusion of all investigations and after those applicants designated as "most qualified" have been interviewed, the council shall select, by majority vote of its entire membership, the nominees to be submitted to the Governor. The council shall nominate no fewer than three persons for each vacancy on the Public Service Commission. The council shall nominate for gubernatorial appointment only persons who were initially designated as "most qualified" and whose personal interviews and investigations have satisfied the criteria set forth in Section VI. The names of the nominees shall be certified to the Governor in alphabetical order together with a copy of the investigative information relating to each such nominee.

VI. Standards and Qualifications; Criteria:

Public Service Commission

No person shall be nominated to the Governor unless the council finds that the nominee is fit for the appointment to the Public Service Commission after full and careful consideration by the council of the following criteria:

A. Personal attributes

1. Personal integrity
2. Standing in community
3. Sobriety
4. Moral Conduct
5. Ethics
6. Impartiality
7. Administrative ability
8. Independence
9. Temperament

B. Competency and experience

1. General health
2. Intelligence
3. Professional reputation
4. Knowledge, experience and competence in the industry, with particular emphasis on one or more of the following fields:
 - accounting
 - economics
 - energy
 - engineering
 - finance
 - law
 - natural resource conservation
 - public affairs
 - or another field substantially related to the duties and functions of the commission

VII. Appointment of Members to Public Service Commission by the Council:

A. Introduction

Section 350.031(7), *Florida Statutes*, provides that if the Governor has not made an appointment within 30 consecutive calendar days after the receipt of the recommendation from the council, the council by majority vote, shall appoint, within 30 days after the expiration of the Governor's time to make an appointment, one person from the applicants previously nominated to the Governor to fill the vacancy.

In addition, section 350.031(9), *Florida Statutes*, provides that if the Governor has not made a timely replacement appointment under the circumstances stated in subsection (9), or if the appointment is not confirmed by the Senate, the council, by majority vote, shall appoint within 30 days after the Legislature adjourns sine die, one person from the applicants previously nominated to the Governor to fill the vacancy.

The following procedures apply in the above instances.

B. Candidates for appointment

Only those nominees who were nominated by the council to the Governor pursuant to *Florida Statutes*, 350.031(6), shall be considered for appointment to the Public Service Commission by the council.

C. Voting procedures for appointment

At a duly convened meeting of the membership of the council, the chairman shall poll in alphabetical order each member of the council who is present to cast a single vote for his or her choice to fill a particular vacancy. If there exists more than one vacancy to be filled on the Public Service Commission at the council meeting, each member present shall cast simultaneously one vote for his or her choice for each vacancy. The name of the chairman shall be called last. After the members of the council have voted on the initial ballot, the chairman shall tally, record, and announce the number of votes for all nominees receiving votes.

1. Single vacancy:

In the case of a single vacancy, the nominee who receives the highest number of votes shall be deemed appointed by the council to fill the vacancy on the Public Service Commission; provided however, that the aforesaid nominee has received such votes from a majority of the membership of the council.

2. Multiple vacancies:

(a) A nominee who receives the highest number of votes shall be deemed appointed by the council to fill one of the vacancies on the Public Service Commission; provided however, that the aforesaid nominee has received such votes from a majority of the membership of the council.

(b) If a nominee receiving the next highest number of votes has also received such votes from a majority of the council membership, that person shall be appointed to fill the second vacancy on the Public Service Commission.

(c) In case of a tie between two of the nominees who receive the highest number of votes, provided that both nominees have received such votes from a majority of the council membership, both shall be appointed to fill the vacancies.

(d) In the event there is a tie between more than two of the nominees who receive the highest number of votes, then the chairman shall call for a run-off round of voting with respect to the aforesaid nominees and council members shall be polled in accordance with the procedures in C. above.

(e) In case one nominee receives the highest number of votes and two nominees receive the next highest but equal number of votes, provided all the aforesaid nominees have received such votes from a majority of the council membership, the nominee receiving the highest number of votes shall be appointed to fill one vacancy on the Public Service Commission, and the two remaining nominees with tie votes will be in a run-off round of voting in accordance with the procedures in C. above to fill the other vacancy.

3. In the event the nominee or nominees with the highest number of votes in any round of voting does/do not receive votes from a majority of the council membership, the chairman shall call for another round of voting according to the procedures in Section c. above, but the eligible nominees for consideration shall be only the three (or more in the event of a tie) nominees with the highest number of votes. This process may be repeated as necessary until one or more nominee(s) receive(s) votes from a majority of the council membership and is/are thereby appointed to the Public Service Commission.

A run-off round of voting shall make null and void all previous votes cast for these nominees. The chairman shall tally, record, and announce the total vote of the membership of the council for such nominees.

4. Notice of appointment

Upon the selection of an appointee, the chairman shall send a notice to the appointee on behalf of the council in the following form:

NOTICE OF APPOINTMENT

This is to advise you that by virtue of the authority vested in the Florida Public Service Commission Nominating Council pursuant to Chapter 350, *Florida Statutes*, you have this day been appointed to the Florida Public Service Commission. This appointment shall be for a term of _____ years, commencing _____, 20____, with all the powers and duties incident to such office.

The appointment is subject to your acceptance and subject to confirmation by the Senate of the State of Florida.

Before entering upon the duties of his or her office, each commissioner shall subscribe to an oath of office as provided in Section 350.05, *Florida Statutes*.

Dated _____, 20____

Florida Public Service Commission
Nominating Council

By _____
Chairman

VIII. Records:

The nominating council shall maintain continuous records of its proceedings, including written records of each council vote. Such records shall be maintained in the Office of Legislative Services.

Such records shall be open to the public upon reasonable notice, as further provided in Florida's Public Records Law, which shall apply to the proceedings of the Public Service Commission Nominating Council.

IX. Ethical Consideration:

No council member should conduct himself or herself in a manner that reflects discredit upon the selection process. Consideration of applicants by the council should be made impartially and objectively; however, a council member may suggest the names of prospective nominees. A council member should disclose to other council members all personal and business relationships with an applicant that may influence his or her decision and, if a substantial conflict of interest exists, the council member should disqualify himself or herself from voting on further consideration of that applicant.

All balloting by the council shall be by open ballot.

X. Meetings; Notice:

All meetings of the council shall be open to the public at all times.

Meetings of the council shall be held upon no less than seven days written notice to the President of the Senate, the Speaker of the House of Representatives, the Governor of Florida, and to each of the council members. The chair shall make a reasonable attempt to schedule meetings at locations and times to best accommodate the members. No meeting shall be held at such place or time that would conflict with the attendance by a member of the Florida Senate or Florida House of Representatives at a regularly scheduled legislative committee meeting of which any member of the Nominating Council shall be a member. Appointments for such interviews and agendas for the meetings shall be approved by the chairman.

The meeting notice shall contain an agenda prescribing the business to come before the meeting and the order of business.

All persons appearing to speak before the council shall fill out an appearance card in a form substantially as used by standing committees of the Florida Senate and House of Representatives.

These rules may be amended or waived by a two-thirds vote of those council members present at any duly called meeting of the council.

All meetings and proceedings of the council shall be staffed by the Office of Legislative Services.

XI. Council in Deliberation:

The following general rules shall prescribe the procedure for the council on deliberating any of its duties as prescribed herein:

A. Calling council to order:

The chair, or in the absence of the chair the vice-chair, shall call the council to order at the date and hour provided by the notice of the council meeting. On the appearance of a quorum the council shall proceed with the order of business. Any member of the council may question any existence of a quorum.

B. Chair's control:

The chair or vice-chair shall preserve order and decorum and shall have general control of the council meeting room. If there is a disturbance or disorderly conduct in the council meeting room, the chair may take such actions as may be necessary to assure that orderly conduct is maintained.

C. Order of business:

Items shall be considered in the order appearing in the notice required by these rules. An item may be considered out of its order by the council on a vote of two-thirds of those members present.

XII. Chair's Authority; Appeals:

The chair shall sign or approve all notices or reports required or permitted under these rules. The chair shall decide all questions of order. Any ruling by the chair is subject, however, to an appeal by any member. Any appeal made by such member questioning the ruling of the chair shall be made instant. Any ruling made by the chair, and questioned by appeal of the chair's ruling shall stand, unless reversed by a two-thirds vote of the members present.

XIII. Members' Attendance, Voting, Proxy:

No member of the council shall be allowed to vote by proxy. A majority of all the council members present shall agree by their votes on the disposition of any matter considered by the council.

The chair may excuse any council member for just cause and this excused absence shall be noted on the council's records.

XIV. Taking the Vote:

The chair shall declare all votes and shall cause same to be entered on the records of the council.

All votes shall be recorded by a roll call of the members present. A council member may request to change his or her vote before the results of any roll call are announced. After the results have been announced, a council member with unanimous consent of those present may change his or her vote. If such changed vote alters the final action of the council, no change of vote shall be valid until the measure has been recalled to the council for further consideration. On request of any council member prior to consideration of other business, the chair shall order a verification of a vote.

XV. Casting Vote for Another:

No council member shall cast a vote for another member.

XVI. Explanation of Vote:

Any council member may submit his or her explanation in writing on any vote and shall file it with the chair. The explanation shall be kept as part of the council record.

XVII. Motions; How Made, Withdrawn:

Every motion may be made orally. On request of the chair, a council member shall submit his or her motion in writing. After a motion has been stated or read by the chair, it shall be deemed to be in possession of the council if seconded by a member, and shall be disposed of by vote of the council members present. The mover may withdraw a motion, except a motion to reconsider at any time before the same has been amended, or before a vote shall have commenced.

XVIII. Motions; Precedence:

When a question is under debate, the chair shall receive no motion except:

- A. To rise
- B. To take a recess
- C. To reconsider
- D. To limit debate
- E. To postpone to a day certain which shall have precedence in the descending order given.

XIX. Recognition of Service:

Service on the Council is uncompensated. For this reason, to recognize the valuable contribution that council members make to the State of Florida, the chair may authorize the expenditure of state funds of not more than \$100 for a suitable plaque or similar recognition to be presented to council members at the end of their service. The expenditure of funds to recognize the Chair's service may be authorized by the vice-chair.

POSITION DESCRIPTION
FLORIDA PUBLIC SERVICE COMMISSIONER

1. **Qualifications and Requirements:** This is a full-time position, with the Commissioner serving on a five-member collegial body. The Commissioner should be competent and knowledgeable in one or more fields including accounting, economics, energy, engineering, finance, law, natural resource conservation, public affairs, or any other field(s) substantially related to the regulation of gas, electric, telecommunications, water and wastewater utilities. The Commissioner must abide by the qualifications specified in s. 350.04, *Florida Statutes*, and subscribe to the oath specified in s. 350.05, *Florida Statutes*, before entering the duties of the office. The Commissioner must comply with s. 350.041, *Florida Statutes*, regarding standards of conduct; s. 350.042, *Florida Statutes*, regarding ex parte communications; s. 286.011, *Florida Statutes*, regarding the Sunshine Law; and the Code of Ethics outlined in Part III of Chapter 112, *Florida Statutes*.
2. **Location and Salary:** Subsection 350.06(1), *Florida Statutes*, requires that the office of the Commissioner be in the vicinity of Tallahassee. The principal activities of this position require the Commissioner's daily attendance in the Commission's office in Tallahassee unless attending to Commission-related business elsewhere. The current salary is \$131,036 per year.
3. **Duties and Responsibilities:** This position requires the ability to assimilate, analyze, and act on complex information related to regulation of public utilities, submitted by the Commission's staff, the Public Counsel, utility companies' representatives, other interested parties, and the general public. Information presented to the Commissioner is often highly technical and conceptually complex. The Commissioner must be able to understand, interpret, and act upon highly technical information which is presented to Commissioners on a regular basis. The Commissioner regularly participates in proceedings in which the Commission exercises high-level quasi-judicial and quasi-legislative functions related to regulated utilities. The Commissioner participates in regularly scheduled agenda conferences to make decisions regarding cases involving regulated utilities, to hear oral arguments from attorneys, and to make decisions related to policies and procedures for internal management of the Commission. The Commissioner travels statewide to attend customer service meetings and rate case proceedings, but most hearings are conducted in Tallahassee. The Commissioner may also represent the Commission on national committees and before federal agencies and Congress.

The Commission is responsible for regulating the rates and service quality for five investor-owned electric companies, seven investor-owned natural gas utilities, and 148 investor-owned water and/or wastewater utilities. The Commission also has competitive market oversight for more than 400 telecommunications companies. Additionally, the Commission has limited jurisdiction over municipal electric and gas utilities and rural electric cooperatives, and has other statutory responsibilities pursuant to Chapters 350, 364, 366, 367, 368, 403 and 427, *Florida Statutes*. Decisions of the Commission are subject to judicial review.

**MEMBERS OF THE
FLORIDA PUBLIC SERVICE COMMISSION NOMINATING COUNCIL**

Senator Joseph Abruzzo, Chairman (*Term ends 11/4/14*)

Representative Jose Felix Diaz, Vice Chairman (*Term ends 11/4/14*)

Wogan S. Badcock, III (*Term ends 1/1/16*)

Rachel V. Burgin (*Term ends 1/1/17*)

Senator Anitere Flores (*Term ends 11/4/14*)

J. Dudley Goodlette (*Term ends 1/1/16*)

Representative Mike La Rosa (*Term ends 11/4/14*)

Senator Garrett Richter (*Term ends 11/4/14*)

Jose E. Valiente (*Term ends 1/1/17*)

Seth D. Weightman (*Term ends 1/1/18*)

Representative Alan B. Williams (*Term ends 11/4/14*)

Vacant (*Term ends 1/1/18*)

MEMBERS OF THE FLORIDA PUBLIC SERVICE COMMISSION

Art Graham, Chairman (*Term ends 1/1/18*)

Eduardo E. Balbis (*Term ends 1/1/15*)

Ronald A. Brisé (*Term ends 1/1/18*)

Julie Imanuel Brown (*Term ends 1/1/15*)

Lisa Polak Edgar (*Term ends 1/1/17*)

**EXECUTIVE DIRECTOR OF THE
FLORIDA PUBLIC SERVICE COMMISSION**

Braulio L. Baez