

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.

Note.—Redesignated as s. 350.031(5) and (6) by s. 1, ch. 90-272.

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.

(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.

(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.

(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 ss. 350.031, 350.04, 350.041 and 350.042.

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

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.

350.125 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.

CHAPTER 364

TELECOMMUNICATIONS COMPANIES

PART I

GENERAL PROVISIONS

364.183 Access to company records.

364.335 Application for certificate.

364.183 Access to company records.—

(1) The commission shall have access to all records of a telecommunications company that are reasonably necessary for the disposition of matters within the commission's jurisdiction. The commission shall also have access to those records of a local exchange telecommunications company's affiliated companies, including its

parent company, that are reasonably necessary for the disposition of any matter concerning an affiliated transaction or a claim of anticompetitive behavior including claims of cross-subsidization and predatory pricing. The commission may require a telecommunications company to file records, reports or other data directly related to matters within the commission's jurisdiction in the form specified by the commission and may require such company to retain such information for a designated period of time. Upon request of the company or other person, any records received by the commission which are claimed by the company or other person to be proprietary confidential business information shall be kept confidential and shall be exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2) Discovery in any docket or proceeding before the commission shall be in the manner provided for in Rule 1.280 of the Florida Rules of Civil Procedure. Upon a showing by a company or other person and a finding by the commission that discovery will require the disclosure of proprietary confidential business information, the commission shall issue an appropriate protective order designating the manner for handling such information during the course of the proceeding and for protecting such information from disclosure outside the proceeding. Such proprietary confidential business information shall be exempt from s. 119.07(1). Any records provided pursuant to a discovery request for which proprietary confidential business information status is requested shall be treated by the commission and the Office of the Public Counsel and any other party subject to the public records law as confidential and shall be exempt from s. 119.07(1), pending a formal ruling on such request by the commission or the return of the records to the person providing the records. Any record which has been determined to be proprietary confidential business information and is not entered into the official record of the proceeding shall be returned to the person providing the record within 60 days after the final order, unless the final order is appealed. If the final order is appealed, any such record shall be returned within 30 days after the decision on appeal. The commission shall adopt the necessary rules to implement this subsection.

(3) The term "proprietary confidential business information" means information, regardless of form or characteristics, which is owned or controlled by the person or company, is intended to be and is treated by the person or company as private in that the disclosure of the information would cause harm to the ratepayers or the person's or company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:

- (a) Trade secrets.
- (b) Internal auditing controls and reports of internal auditors.
- (c) Security measures, systems, or procedures.
- (d) Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the company or its affiliates to contract for goods or services on favorable terms.

(e) Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.

(f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.

(4) Any finding by the commission that a record contains proprietary confidential business information is effective for a period set by the commission not to exceed 18 months, unless the commission finds, for good cause, that the protection from disclosure shall be for a specified longer period. The commission shall order the return of a record containing proprietary confidential business information when such record is no longer necessary for the commission to conduct its business. At that time, the commission shall order any other person holding such record to return it to the person providing the record. Any record containing proprietary confidential business information which has not been returned at the conclusion of the period set pursuant to this subsection shall no longer be exempt from s. 119.07(1) unless the telecommunications company or affected person shows, and the commission finds, that the record continues to contain proprietary confidential business information. Upon such finding, the commission may extend the period for confidential treatment for a period not to exceed 18 months unless the commission finds, for good cause, that the protection from disclosure shall be for a specified longer period. During commission consideration of an extension, the record in question remains exempt from s. 119.07(1). The commission shall adopt rules to implement this subsection, which shall include notice to the telecommunications company or affected person regarding the expiration of confidential treatment.

History.—ss. 1, 5, ch. 82-51; ss. 6, 7, ch. 89-163; ss. 23, 48, 49, ch. 90-244; s. 4, ch. 91-429; s. 18, ch. 95-403; s. 167, ch. 96-406.

364.335 Application for certificate.—

(1) Each applicant for a certificate shall:

(a) Provide all information required by rule or order of the commission, which may include a detailed inquiry into the ability of the applicant to provide service, a detailed inquiry into the territory and facilities involved, and a detailed inquiry into the existence of service from other sources within geographical proximity to the territory applied for.

(b) File with the commission schedules showing all rates for service of every kind furnished by it and all rules and contracts relating to such service.

(c) File the application fee required by the commission in an amount not to exceed \$250. Such fees shall be deposited in accordance with s. 350.113.

(d) Submit an affidavit that the applicant has caused notice of its application to be given to such persons and in such manner as may be prescribed by commission rule.

(2) If the commission grants the requested certificate, any person who would be substantially affected by the requested certification may, within 21 days after the granting of such certificate, file a written objection requesting a proceeding pursuant to ss. 120.569 and 120.57. The commission may, on its own motion, institute a proceeding under ss. 120.569 and 120.57 to deter-

mine whether the grant of such certificate is in the public interest. The commission shall order such proceeding conducted in or near the territory applied for, if feasible. If any person requests a public hearing on the application, such hearing shall, if feasible, be held in or near the territory applied for, and the transcript of the public hearing and any material submitted at or prior to the hearing shall be considered part of the record of the application and any proceeding related to the application.

(3) The commission may grant a certificate, in whole or in part or with modifications in the public interest, but in no event granting authority greater than that requested in the application or amendments thereto and noticed under subsection (1); or it may deny a certificate. The commission may grant certificates for proposed telecommunications companies, or for the extension of an existing telecommunications company, without regard to whether such companies will be in competition with or duplicate the local exchange services provided by any other telecommunications company. The commission may also grant a certificate for a proposed telecommunications company, or for the extension of an existing telecommunications company, which will be providing either competitive or duplicative pay telephone service pursuant to the provisions of s. 364.3375, or private line service by a certified alternative access vendor pursuant to s. 364.337(6). Pay telephone service shall include that telephone service using telephones that are capable of accepting payment by specie, paper money, or credit cards.

(4) Revocation, suspension, transfer, or amendment of a certificate shall be subject to the provisions of this section; except that, when the commission initiates the action, the commission shall furnish notice to the appropriate local government and to the Public Counsel.

History.—s. 27, ch. 80-36; s. 2, ch. 81-318; ss. 3, 5, ch. 82-51; s. 6, ch. 83-73; s. 1, ch. 85-327; ss. 6, 7, ch. 89-163; ss. 32, 48, 49, ch. 90-244; s. 4, ch. 91-429; s. 21, ch. 95-403; s. 93, ch. 96-410.

CHAPTER 365

USE OF TELEPHONES AND FACSIMILE MACHINES

365.171 Emergency telephone number "911."

365.171 Emergency telephone number "911."—

(1) **SHORT TITLE.**—This section shall be known and cited as the "Florida Emergency Telephone Act."

(2) **LEGISLATIVE INTENT.**—The Legislature hereby finds and declares that it is in the public interest to shorten the time required for a citizen to request and receive emergency aid. There currently exist thousands of different emergency phone numbers throughout the state. Provision for a single, primary three-digit emergency number through which emergency services can be quickly and efficiently obtained would provide a significant contribution to law enforcement and other public service efforts by making it easier to notify public safety personnel. Such a simplified means of procuring emergency services will result in the saving of life, a reduction in the destruction of property, and quicker apprehension

of criminals. It is the intent of the Legislature to establish and implement a cohesive statewide emergency telephone number "911" plan which will provide citizens with rapid direct access to public safety agencies by dialing the telephone number "911" with the objective of reducing the response time to situations requiring law enforcement, fire, medical, rescue, and other emergency services.

(3) **DEFINITIONS.**—As used in this section:

(a) "Department" means the Department of Management Services.

(b) "Division" means the Division of Communications of the department.

(c) "Local government" means any city, county, or political subdivision of the state and its agencies.

(d) "Public agency" means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services.

(e) "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

(4) **STATE PLAN.**—The division shall develop a statewide emergency telephone number "911" system plan. The plan shall provide for:

(a) The establishment of the public agency emergency telephone communications requirements for each entity of local government in the state.

(b) A system to meet specific local government requirements. Such system shall include law enforcement, firefighting, and emergency medical services and may include other emergency services such as poison control, suicide prevention, and emergency management services.

(c) Identification of the mutual aid agreements necessary to obtain an effective "911" system.

(d) A funding provision which shall identify the cost necessary to implement the "911" system.

(e) A firm implementation schedule which shall include the installation of the "911" system in a local community within 24 months after the designated agency of the local government gives a firm order to the telephone utility for a "911" system.

The division shall be responsible for the implementation and coordination of such plan. The division shall adopt any necessary rules and schedules related to public agencies for implementing and coordinating such plan, pursuant to chapter 120. The public agency designated in the plan shall order such system within 6 months after publication date of the plan if the public agency is in receipt of funds appropriated by the Legislature for the implementation and maintenance of the "911" system. Any jurisdiction which has utilized local funding as of July 1, 1976, to begin the implementation of the state plan as set forth in this section shall be eligible for at least a partial reimbursement of its direct cost when, and if, state funds are available for such reimbursement.

(5) **SYSTEM DIRECTOR.**—The director of the division is designated as the director of the statewide emer-