

the provisions of this chapter until such time as the board of county commissioners of any such county, acting pursuant to the provisions of subsection (1), makes this chapter applicable to such county or until the Legislature, by appropriate act, removes one or more of such counties from this exclusion.

(4) As of the day a utility is no longer regulated by the commission under this chapter, each such utility which is engaged in the operation or construction of a system shall be entitled to receive from the county in which it is located and operating a certificate of authorization for each area for which such utility held a certificate of authorization from the commission on the day the utility became subject to regulation by the county. The utility will make application by filing with the governing body of the county:

(a) A map of its existing system or system under construction;

(b) A certified copy of the certificate of authorization issued by the commission, including a legal description of the service area for which the certificate of authorization was issued;

(c) A tariff, listing all rates and charges then in effect, which shall remain in effect until thereafter lawfully changed;

(d) A copy of the operating regulations and procedures of the utility then in effect, which shall remain in effect until thereafter lawfully changed; and

(e) The then-current rate base of the utility, which shall then continue to be the rate base of the utility until thereafter lawfully changed.

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

(6) Any county in which utilities as herein defined were regulated by the commission on or after January 1, 1980, which subsequently cease to be so regulated, shall, within 90 days of the cessation of commission regulation, adopt and follow as minimum standards of regulation the provisions of s. 367.081, except for paragraph (4)(a), and s. 367.082, except that the word "commission" shall be read as "the governing body of such county" when the context implies or admits. The authorized rate of return shall be no less than the weighted cost of the capital of the utility, including debt and equity.

(7) Notwithstanding anything in this section to the contrary, the commission shall have exclusive jurisdiction over all utility systems whose service transverses county boundaries, whether the counties involved are jurisdictional or nonjurisdictional, except for utility systems that are subject to, and remain subject to, interlocal utility agreements in effect as of January 1, 1991, that create a single governmental authority to regulate the utility systems whose service transverses county boundaries, provided that no such interlocal

agreement shall divest commission jurisdiction over such systems, any portion of which provides service within a county that is subject to commission jurisdiction under this section.

(8) Each county which is excluded from the provisions of this chapter shall regulate the rates of all utilities in that county which would otherwise be subject to regulation by the commission pursuant to s. 367.081(1), (2), (3), and (6). The county shall not regulate the rates or charges of any system or facility which would otherwise be exempt from commission regulation pursuant to s. 367.022(2). For this purpose the county or its agency shall proceed as though the county or agency is the commission.

History.—s. 1, ch. 71-278; s. 1, ch. 73-193; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 22, 25, 26, ch. 80-99; ss. 2, 3, ch. 81-318; ss. 12, 15, ch. 82-25; s. 4, ch. 85-85; ss. 23, 26, 27, ch. 89-353; s. 6, ch. 90-166; s. 1, ch. 90-350; s. 4, ch. 91-429; s. 11, ch. 96-202.

CHAPTER 368

GAS TRANSMISSION AND DISTRIBUTION

PART II

NATURAL GAS TRANSMISSION PIPELINE INTRASTATE REGULATORY ACT

- 368.106 Statement of intent to increase rates; major changes; hearing; suspension of rate schedules; determination of rate level.
368.108 Confidentiality; discovery.

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

(1) Except when a rate is deemed just and reasonable pursuant to s. 368.105(3), no natural gas transmission company may charge an initial rate or increase its rates above the maximum rate on file for a service except by filing a statement of intent with the commission no later than 60 days prior to the proposed effective date of the proposed initial or new maximum rate, unless the commission for good cause waives such 60-day notice. The statement of intent shall be kept open for public inspection and shall include such information, and shall be served upon affected parties in such manner, as is required by the commission's rules and regulations.

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

(3) Except when a rate is deemed just and reasonable pursuant to s. 368.105(3), pending the hearing and decision pursuant to subsection (2), the commission may suspend the operation of the rate for a period not to exceed 8 months from the date the rate was filed. In

the case of proposed initial rates, if the commission does not make a final determination concerning the proposed initial rates prior to expiration of the period of suspension, the rates, notwithstanding any provision of ss. 368.101-368.112 or chapter 120, shall be deemed to be just and reasonable and to have been approved by the commission; provided that such initial rates shall become effective 60 days after they are filed, subject to refund with interest, for all amounts collected in excess of the rate finally determined by the commission to be just and reasonable pursuant to subsection (4). In the case of a proposed change or modification to any rate in effect, if the commission suspends such proposed rate or modification and does not make its final determination of rates within 8 months after the date the proposed rate or modification is filed, the natural gas transmission company may put into effect a new rate, not to exceed the proposed rate, subject to refund with interest, for all amounts collected in excess of the rate finally determined by the commission to be just and reasonable pursuant to subsection (4).

(4) If, after hearing, the commission finds the proposed rate to be unjust and unreasonable or unduly discriminatory or preferential, the commission shall determine the rate to be charged or applied by the natural gas transmission company for the service in question and shall fix same by order, which shall be in effect from the date the change in rate was proposed to have taken effect, provided that any refund ordered by the commission shall not exceed the difference between the proposed new maximum rate and the just and reasonable maximum rate in effect at the time of the corresponding rate increase filing under this section for the period the proposed new maximum rate was charged and collected subject to refund.

History.—s. 7, ch. 92-284; s. 96, ch. 96-410.

368.108 Confidentiality; discovery.—

(1) The commission shall continue to have reasonable access to all natural gas transmission company records and records of the natural gas transmission company's affiliated companies, including its parent company, regarding transactions or cost allocations among the natural gas transmission company and such affiliated companies, and such records necessary to ensure that a natural gas transmission company's ratepayers do not subsidize unregulated activities. Upon request of the natural gas transmission company or other person, any records received by the commission which are shown and found by the commission to be proprietary confidential business information shall be confidential and exempt from s. 119.07(1).

(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. Information which affects a natural gas transmission company's rates or cost of service shall be considered relevant for purposes of discovery in any docket or proceeding where the natural gas transmission company's rates or cost of service are at issue. The commission shall determine whether information requested in discovery affects a natural gas transmission company's rates or cost of service. Upon a showing by a natural gas transmission

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 appropriate protective orders 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 must 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 must be returned within 30 days after the decision on appeal. The commission shall adopt the necessary rules to implement this provision.

(3) "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 a private agreement that provides that the information will not be released to the public. "Proprietary confidential business information" 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 natural gas transmission 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 the information.
 - (f) Employee personnel information unrelated to compensation, duties, qualifications, or responsibilities.
- (4) Any finding by the commission that records contain 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 records containing proprietary confidential business information when such records are no longer necessary for the commission to conduct its business. At that time, the commission shall order any other person holding such records to return them to the person providing the records. Records containing proprietary confidential business information which have 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 natural gas transmission company or affected person shows, and the commission finds, that the records continue 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 records in question will remain confidential and exempt from s. 119.07(1). The commission shall adopt rules to implement this provision which shall include notice to the natural gas transmission company or affected person regarding the expiration of confidential treatment.

History.—s. 9, ch. 92-284; s. 170, ch. 96-406.

CHAPTER 369

CONSERVATION

PART I

CONSERVATION, GENERALLY

369.105 Florida Youth Conservation Corps.

369.105 Florida Youth Conservation Corps.—
[Repealed by s. 17, ch. 96-423.]

PART II

AQUATIC PLANT CONTROL

369.20 Florida Aquatic Weed Control Act.

369.252 Invasive exotic plant control on public lands.

369.20 Florida Aquatic Weed Control Act.—

(1) This act shall be known as the "Florida Aquatic Weed Control Act."

(2) The Department of Environmental Protection shall direct the control, eradication, and regulation of noxious aquatic weeds and direct the research and planning related to these activities, as provided in this section, excluding the authority to use fish as a biological control agent, so as to protect human health, safety, and recreation and, to the greatest degree practicable, prevent injury to plant and animal life and property.

(3) It shall be the duty of the department to guide and coordinate the activities of all public bodies, authorities, agencies, and special districts charged with the control or eradication of aquatic weeds and plants. It may delegate all or part of such functions to the Game and Fresh Water Fish Commission.

(4) The department shall also promote, develop, and support research activities directed toward the more effective and efficient control of aquatic plants. In the furtherance of this purpose, the department is authorized to:

(a) Accept donations and grants of funds and services from both public and private sources;

(b) Contract or enter into agreements with public or private agencies or corporations for research and development of aquatic plant control methods or for the performance of aquatic plant control activities;

(c) Construct, acquire, operate, and maintain facilities and equipment; and

(d) Enter upon, or authorize the entry upon, private property for purposes of making surveys and examinations and to engage in aquatic plant control activities; and such entry shall not be deemed a trespass.

(5) The Department of Environmental Protection may disburse funds to any special district or other local authority charged with the responsibility of controlling or eradicating aquatic plants, upon:

(a) Receipt of satisfactory proof that such district or authority has sufficient funds on hand to match the state funds herein referred to on an equal basis;

(b) Approval by the department of the control techniques to be used by the district or authority; and

(c) Review and approval of the program of the district or authority by the department to be in conformance with the state control plan.

(6) The department shall adopt, amend, or repeal all rules as necessary to carry out the duties, obligations, and powers set forth in this section and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including creating general permits and exemptions and adopting rules and forms governing reports.

(7) No person or public agency shall control, eradicate, remove, or otherwise alter any aquatic weeds or plants in waters of the state unless a permit for such activity has been issued by the department, or unless the activity is in waters expressly exempted by department rule. The department shall develop standards by rule which shall address, at a minimum, chemical, biological, and mechanical control activities; an evaluation of the benefits of such activities to the public; specific criteria recognizing the differences between natural and artificially created waters; and the different amount and quality of littoral vegetation on various waters. Applications for a permit to engage in aquatic plant control activities shall be made to the department. In reviewing such applications, the department shall consider the criteria set forth in subsection (2).

History.—ss. 1, 2, ch. 70-203; s. 3, ch. 80-129; s. 32, ch. 85-81; s. 1, ch. 89-151; s. 187, ch. 94-356; s. 2, ch. 96-238.

Note.—Former s. 372.925.

369.252 Invasive exotic plant control on public lands.—The department shall establish a program to:

(1) Achieve eradication or maintenance control of invasive exotic plants on public lands when the scientific data indicate that they are detrimental to the state's natural environment;

(2) Assist state and local government agencies in the development and implementation of coordinated management plans for the control of invasive exotic plant species on public lands;

(3) Contract, or enter into agreements, with entities in the State University System or other governmental entities for research concerning biological control agents; production and growth of biological control agents; and development of workable methods for the