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1 A bill to be entitled

2 An act relating to the Public Service Commission; amending
3 s. 350.01, F.S.; correcting cross-references; revising
4 provisions for terms of commissioners on the Public
5 Service Commission; revising a reference to the office of
6 hearing examiners; amending s. 350.011, F.S.; deleting
7 obsolete provisions relating to a transfer of certain
8 functions and duties to the Public Service Commission;
9 repealing s. 350.051, F.S., relating to qualifications of
10 the Chief Auditor of the commission; amending s. 350.06,
11 F.S.; deleting certain provisions relating to the
12 employment of reporters and furnishing of transcripts by
13 the commission; revising provisions for the collection and
14 accounting of fees for furnishing transcripts and other
15 documents or instruments; amending s. 350.113, F.S.;
16 removing limits on the amount of certain regulatory fees;
17 amending s. 350.117, F.S.; removing an exception for
18 railroads from certain audits by the commission; repealing
19 s. 350.80, F.S., relating to regulation of certain coal
20 slurry pipeline companies; amending s. 361.08, F.S.;
21 removing a provision for consideration by the court of
22 certain findings by the commission relating to coal slurry
23 pipeline companies, to conform to changes made by the act;
24 providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:
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28 Section 1. Paragraphs (a) and (b) of subsection (2) and
 29 subsection (5) of section 350.01, Florida Statutes, are amended
 30 to read:

31 350.01 Florida Public Service Commission; terms of
 32 commissioners; vacancies; election and duties of chair; quorum;
 33 proceedings.--

34 (2) (a) Each commissioner serving on July 1, 1978, shall be
 35 permitted to remain in office until the completion of his or her
 36 current term. Upon the expiration of the term, a successor shall
 37 be appointed in the manner prescribed by s. 350.031(5), (6), ~~(3)~~
 38 and (7) ~~(4)~~ for a 4-year term, except that the terms of the
 39 initial members appointed under this act shall be as follows:

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

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

46 (b) Two additional commissioners shall be appointed in the
 47 manner prescribed by s. 350.031(5), (6), ~~(3)~~ and (7) ~~(4)~~ for 4-
 48 year terms beginning the first Tuesday after the first Monday in
 49 January, 1979, and successors shall be appointed for 4-year
 50 terms thereafter with each term beginning on January 2 of the
 51 year the term commences and ending 4 years later on January 1.

52 (5) The primary duty of the chair is to serve as chief
 53 administrative officer of the commission; however, the chair may
 54 participate in any proceedings pending before the commission
 55 when administrative duties and time permit. In order to

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56 distribute the workload and expedite the commission's calendar,
57 the chair, in addition to other administrative duties, has
58 authority to assign the various proceedings pending before the
59 commission requiring hearings to two or more commissioners or to
60 the commission's staff ~~office~~ of hearing examiners under the
61 supervision of the office of general counsel. Only those
62 commissioners assigned to a proceeding requiring hearings are
63 entitled to participate in the final decision of the commission
64 as to that proceeding; provided, if only two commissioners are
65 assigned to a proceeding requiring hearings and cannot agree on
66 a final decision, the chair shall cast the deciding vote for
67 final disposition of the proceeding. If more than two
68 commissioners are assigned to any proceeding, a majority of the
69 members assigned shall constitute a quorum and a majority vote
70 of the members assigned shall be essential to final commission
71 disposition of those proceedings requiring actual participation
72 by the commissioners. If a commissioner becomes unavailable
73 after assignment to a particular proceeding, the chair shall
74 assign a substitute commissioner. In those proceedings assigned
75 to a hearing examiner, following the conclusion of the hearings,
76 the designated hearing examiner is responsible for preparing
77 recommendations for final disposition by a majority vote of the
78 commission. A petition for reconsideration shall be voted upon
79 by those commissioners participating in the final disposition of
80 the proceeding.

81 Section 2. Section 350.011, Florida Statutes, is amended
82 to read:

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83 350.011 Florida Public Service Commission; jurisdiction;
84 powers and duties.--The state regulatory agency heretofore known
85 as the Florida Railroad and Public Utilities Commission or
86 Florida Public Utilities Commission shall be known and hereafter
87 called Florida Public Service Commission, and all rights,
88 powers, duties, responsibilities, jurisdiction, and judicial
89 powers now vested in said Railroad and Public Utilities
90 Commission or said Florida Public Utilities Commission and the
91 commissioners thereof are vested in the Florida Public Service
92 Commission and the commissioners thereof. ~~Whenever reference is~~
93 ~~made to the Florida Railroad and Public Utilities Commission or~~
94 ~~Florida Public Utilities Commission and the commissioners~~
95 ~~thereof in the laws of the state previously enacted or enacted~~
96 ~~at this session of the Legislature, such reference shall be~~
97 ~~construed to mean the Florida Public Service Commission and the~~
98 ~~commissioners thereof and all appropriations for the use of said~~
99 ~~Railroad and Public Utilities Commission or Florida Public~~
100 ~~Utilities Commission and the members thereof for the biennium or~~
101 ~~continuing in nature previously made or made at this session of~~
102 ~~the Legislature, shall be construed to be for the use of said~~
103 ~~Florida Public Service Commission and the commissioners thereof,~~
104 ~~to be used for the purposes set out in the laws making said~~
105 ~~appropriations; provided, however, the change in name of said~~
106 ~~regulatory agency shall in nowise affect any pending causes and~~
107 ~~proceedings, existing notices, orders, certificates, permits,~~
108 ~~licenses, or authorities previously granted or any action~~
109 ~~previously taken by the Florida Railroad and Public Utilities~~
110 ~~Commission or Florida Public Utilities Commission.~~

111 Section 3. Section 350.051, Florida Statutes, is repealed.

112 Section 4. Subsections (3) through (9) of section 350.06,
 113 Florida Statutes, are amended to read:

114 350.06 Place of meeting; expenditures; employment of
 115 personnel; records availability and fees.--

116 (3) The commissioners may employ clerical, technical, and
 117 professional personnel reasonably necessary for the performance
 118 of their duties and. ~~The commissioners may also employ one or~~
 119 ~~more persons capable of stenographic court reporting, to be~~
 120 ~~known as the official reporters of the commission, and fix the~~
 121 ~~compensation of each not to exceed \$28,000 annually. The~~
 122 ~~official reporters shall furnish only to the commission~~
 123 ~~transcripts of all testimony taken by them, and the commission~~
 124 ~~may make and sell certified copies of such testimony and charge~~
 125 ~~therefor the same fees as are allowed clerks of the circuit~~
 126 ~~courts of the state, subject to such rules and regulations as~~
 127 ~~may be prescribed by the commission.~~

128 (4) When needed, the commission may engage supplementary
 129 qualified reporters at their usual rate of compensation;
 130 however, the supplementary reporters shall furnish the
 131 commission the original certified transcripts of testimony taken
 132 by them, ~~but such reporters shall have the right to sell copies~~
 133 ~~of such transcripts subject to rules and regulations of the~~
 134 ~~commission. The commission may make copies of the transcripts~~
 135 ~~for internal use without further compensation. When~~
 136 ~~supplementary reporters are unable to provide copies within a~~
 137 ~~reasonable time, the commission may, upon request, sell copies~~

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138 ~~at its usual rate and shall deposit the proceeds in the Public~~
139 ~~Service Regulatory Trust Fund.~~

140 ~~(5) Upon request by the governing body of a municipal or~~
141 ~~county government within 7 days after completion of the~~
142 ~~transcript and its delivery to the commission, the commission~~
143 ~~shall provide copies of the transcripts of testimony at the cost~~
144 ~~of reproduction and mailing, but such copies need not be~~
145 ~~certified unless specifically requested.~~

146 (5)~~(6)~~ The commission shall make available to the public
147 counsel the original copy of all transcripts for use and study
148 in the commission offices. If the commission makes any copies of
149 transcripts for internal use and if the public counsel has so
150 requested in writing to the clerk of the commission ~~at the time~~
151 ~~of his or her intervention~~, the commission shall supply the
152 public counsel with a copy of the transcript at no charge. ~~In~~
153 ~~all other cases, the public counsel may obtain a copy of the~~
154 ~~transcript from the commission for the cost of reproduction.~~

155 (6)~~(7)~~ The commission shall collect for copying,
156 examining, comparing, correcting, verifying, certifying, or
157 furnishing orders, records, transcripts of testimony, papers, or
158 other instruments no more than the same fees that are allowed
159 clerks of the circuit courts of this state Florida. In cases
160 where the fee would amount to less than \$1, no fee shall be
161 charged.

162 (7)~~(8)~~ Copies of commission orders furnished to public
163 officials, newspapers, periodical publications, federal
164 agencies, state officials of other states, and parties to the
165 proceeding in which the order was entered and their attorneys

166 shall be without charge. However, the commission may in its
 167 discretion charge fees for the furnishing of more than one copy
 168 of any order to any of the foregoing.

169 (8)~~(9)~~ The commission shall keep accounting records ~~a book~~
 170 in which all fees collected by it as provided for herein shall
 171 be recorded, together with the amount and purpose for which
 172 collected. The accounting records ~~This book~~ shall be a public
 173 records record. ~~The commission shall prepare a statement of~~
 174 ~~these fees in duplicate each month and remit one copy of the~~
 175 ~~statement, together with all fees collected by it, to the Chief~~
 176 ~~Financial Officer.~~ All moneys collected pursuant to this section
 177 by the commission shall be deposited in the State Treasury to
 178 the credit of the Florida Public Service Regulatory Trust Fund.

179 Section 5. Subsection (3) of section 350.113, Florida
 180 Statutes, is amended to read:

181 350.113 Florida Public Service Regulatory Trust Fund;
 182 moneys to be deposited therein.--

183 (3) Each regulated company under the jurisdiction of the
 184 commission, which company was in operation for the preceding 6-
 185 month period, shall pay to the commission within 30 days
 186 following the end of each 6-month period, commencing June 30,
 187 1977, a fee based upon the gross operating revenues for such
 188 period ~~subject to the limitations of this subsection.~~ The fee
 189 ~~fees~~ shall, to the extent practicable, be related to the cost of
 190 regulating such type of regulated company. ~~and shall in no event~~
 191 ~~be greater than:~~

192 ~~(a) For each railroad operating under chapter 351, one~~
 193 ~~eighth of 1 percent of its gross operating revenues derived from~~
 194 ~~intrastate business.~~

195 ~~(b) For each telephone company licensed or operating under~~
 196 ~~chapter 364, one eighth of 1 percent of its gross operating~~
 197 ~~revenues derived from intrastate business.~~

198 ~~(c) For each "public utility" as defined in s. 366.02,~~
 199 ~~one eighth of 1 percent of its gross operating revenues derived~~
 200 ~~from intrastate business, excluding sales for resale between~~
 201 ~~public utilities, municipal electric utilities, and rural~~
 202 ~~electric cooperatives, or any combination thereof.~~

203 ~~(d) For each municipal electric utility and rural electric~~
 204 ~~cooperative, one sixty fourth of 1 percent of its gross~~
 205 ~~operating revenues derived from intrastate business, excluding~~
 206 ~~sales for resale between public utilities, municipal electric~~
 207 ~~utilities, and rural electric cooperatives, or any combination~~
 208 ~~thereof.~~

209 ~~(e) For each regulated company licensed under chapter 367,~~
 210 ~~2.5 percent of its gross revenues derived from intrastate~~
 211 ~~business.~~

212
 213 Differences, if any, between the amount paid in any 6-month
 214 period and the amount actually determined by the commission to
 215 be due shall, upon notification by the commission, be
 216 immediately paid or refunded. Each regulated company which is
 217 subject to the jurisdiction of the commission, but which did not
 218 operate under the commission's jurisdiction during the entire
 219 preceding 6-month period, shall, within 30 days after the close

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220 of the first 6-month period during which it commenced operations
 221 under, or became subject to, the jurisdiction of the commission,
 222 pay to the commission the prescribed fee based upon its gross
 223 operating revenues derived from intrastate business during those
 224 months or parts of months in which the regulated company did
 225 operate during such 6-month period. In no event shall payments
 226 under this section be less than \$25 annually.

227 Section 6. Subsection (2) of section 350.117, Florida
 228 Statutes, is amended to read:

229 350.117 Reports; audits.--

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

235 Section 7. Section 350.80, Florida Statutes, is repealed.

236 Section 8. Paragraph (d) of subsection (2) of section
 237 361.08, Florida Statutes, is amended to read:

238 361.08 Right of eminent domain to coal pipeline
 239 companies.--

240 (2) Any corporation, partnership, joint venture,
 241 association, or other legal entity organized under the laws of
 242 this state, or under the laws of any other state and qualified
 243 to do business in this state, for the purpose of supplying any
 244 electric utility or utilities; any city, town, or village or the
 245 inhabitants thereof; or any community with coal or its
 246 derivatives and any mixture and combination thereof by pipeline,
 247 and for the purpose of serving as a common carrier operating or

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248 proposing to operate a pipeline or pipelines for transporting or
249 delivering coal or its derivatives or any mixture or combination
250 thereof, shall have the right of eminent domain, for the purpose
251 of acquiring title, easements, rights-of-way, or other rights or
252 interests in property, necessary to acquire and take private
253 property which is or may be needed for the construction,
254 operation, maintenance, repair, or replacement of coal slurry
255 and derivative plants, pipelines, pumping stations, and any
256 other installations and works incident thereto. The procedure to
257 condemn property or interest therein shall be exercised in the
258 manner set forth in chapters 73 and 74. In any condemnation
259 proceeding under this act, the circuit court shall restrict the
260 exercise of the right of eminent domain in the following
261 particulars:

262 ~~(d) The court, in any condemnation proceeding brought~~
263 ~~pursuant to this section, shall be bound by the findings of the~~
264 ~~Florida Public Service Commission on the general issues of~~
265 ~~economic and environmental feasibility as determined pursuant to~~
266 ~~s. 350.80.~~

267 Section 9. This act shall take effect July 1, 2006.