

1 A bill to be entitled
 2 An act relating to public records; amending s. 364.183,
 3 F.S.; providing the Office of Regulatory Staff access to
 4 the records of telecommunications companies and their
 5 affiliates; limiting the authority of the Public Service
 6 Commission to access records; providing that records
 7 received by the office which are claimed as proprietary
 8 confidential business information by telecommunications
 9 companies and their affiliates are confidential and exempt
 10 from public records requirements; providing for future
 11 legislative review and repeal of the exemption under the
 12 Open Government Sunset Review; amending s. 366.093, F.S.;
 13 providing the Office of Regulatory Staff access to the
 14 records of public utilities and their affiliates; limiting
 15 the authority of the Public Service Commission to access
 16 records; providing that records received by the office
 17 which are shown by the public utility or other person and
 18 found by the commission to be proprietary confidential
 19 business information are confidential and exempt from
 20 public records requirements; providing for future
 21 legislative review and repeal of the exemption under the
 22 Open Government Sunset Review; amending s. 367.156, F.S.;
 23 providing the Office of Regulatory Staff access to the
 24 records of utilities and their affiliates; limiting the
 25 authority of the Public Service Commission to access
 26 records; providing that records received by the office
 27 which are shown by the utility or other person and found
 28 by the commission to be proprietary confidential business

29 information are confidential and exempt from public
 30 records requirements; providing for future legislative
 31 review and repeal of the exemption under the Open
 32 Government Sunset Review; amending s. 368.108, F.S.;
 33 providing the Office of Regulatory Staff access to the
 34 records of natural gas transmission companies and their
 35 affiliates; limiting the authority of the Public Service
 36 Commission to access records; providing that records
 37 received by the office which are shown by the natural gas
 38 transmission company or other person and found by the
 39 commission to be proprietary confidential business
 40 information are confidential and exempt from public
 41 records requirements; providing for future legislative
 42 review and repeal of the exemption under the Open
 43 Government Sunset Review; providing a finding of public
 44 necessity; providing an effective date.

45

46 Be It Enacted by the Legislature of the State of Florida:

47

48 Section 1. Subsection (1) of section 364.183, Florida
 49 Statutes, is amended to read:

50 364.183 Access to company records.—

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

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57 | that are reasonably necessary for the disposition of any matter
 58 | concerning an affiliated transaction or a claim of
 59 | anticompetitive behavior including claims of cross-subsidization
 60 | and predatory pricing. Both the commission and the office may
 61 | require a telecommunications company to file records, reports or
 62 | other data directly related to matters within the commission's
 63 | jurisdiction in the form specified in the request ~~by the~~
 64 | ~~commission~~ and may require such company to retain such
 65 | information for a designated period of time. The authority of
 66 | the commission to access records under this section is granted
 67 | subject to the limitations set forth in s. 350.011(3) and (4).

68 | (b) Upon request of the company or other person, any
 69 | records received by the commission which are claimed by the
 70 | company or other person to be proprietary confidential business
 71 | information shall be kept confidential and shall be exempt from
 72 | s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

73 | (c) Upon request of a company or other person providing
 74 | records to the office pursuant to paragraph (a), any such
 75 | records received by the office which are claimed by the company
 76 | or other person to be proprietary confidential business
 77 | information shall be kept confidential and shall be exempt from
 78 | s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
 79 | This paragraph is subject to the Open Government Sunset Review
 80 | Act in accordance with s. 119.15 and shall stand repealed on
 81 | October 2, 2015, unless reviewed and saved from repeal through
 82 | reenactment by the Legislature.

83 | Section 2. Subsection (1) of section 366.093, Florida
 84 | Statutes, is amended to read:

85 | 366.093 Public utility records; confidentiality.—

86 | (1) (a) The commission and the office shall ~~continue to~~
 87 | have reasonable access to all public utility records and records
 88 | of the utility's affiliated companies, including its parent
 89 | company, regarding transactions or cost allocations among the
 90 | utility and such affiliated companies, and such records
 91 | necessary to ensure that a utility's ratepayers do not subsidize
 92 | nonutility activities. The authority of the commission to access
 93 | records under this section is granted subject to the limitations
 94 | set forth in s. 350.011(3) and (4).

95 | (b) Upon request of the public utility or other person,
 96 | any records received by the commission which are shown and found
 97 | by the commission to be proprietary confidential business
 98 | information shall be kept confidential and shall be exempt from
 99 | s. 119.07(1).

100 | (c) Upon request of a public utility or other person
 101 | providing records to the office pursuant to paragraph (a), any
 102 | such records received by the office which are shown by the
 103 | public utility or other person and found by the commission to be
 104 | proprietary confidential business information shall be
 105 | confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 106 | of the State Constitution. This paragraph is subject to the Open
 107 | Government Sunset Review Act in accordance with s. 119.15 and
 108 | shall stand repealed on October 2, 2014, unless reviewed and
 109 | saved from repeal through reenactment by the Legislature.

110 | Section 3. Subsection (1) of section 367.156, Florida
 111 | Statutes, is amended to read:

112 | 367.156 Public utility records; confidentiality.—

113 (1) (a) The commission and the office shall ~~continue to~~
 114 have reasonable access to all utility records and records of
 115 affiliated companies, including its parent company, regarding
 116 transactions or cost allocations among the utility and such
 117 affiliated companies, and such records necessary to ensure that
 118 a utility's ratepayers do not subsidize nonutility activities.
 119 The authority of the commission to access records under this
 120 section is granted subject to the limitations set forth in s.
 121 350.011(3) and (4).

122 (b) Upon request of the utility or any other person, any
 123 records received by the commission which are shown and found by
 124 the commission to be proprietary confidential business
 125 information shall be kept confidential and shall be exempt from
 126 s. 119.07(1).

127 (c) Upon request of a utility or other person providing
 128 records to the office pursuant to paragraph (a), any such
 129 records received by the office which are shown by the utility or
 130 other person and found by the commission to be proprietary
 131 confidential business information shall be confidential and
 132 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 133 Constitution. This paragraph is subject to the Open Government
 134 Sunset Review Act in accordance with s. 119.15 and shall stand
 135 repealed on October 2, 2014, unless reviewed and saved from
 136 repeal through reenactment by the Legislature.

137 Section 4. Subsection (1) of section 368.108, Florida
 138 Statutes, is amended to read:

139 368.108 Confidentiality; discovery.—

140 (1) (a) The commission and the office shall ~~continue to~~

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141 have reasonable access to all natural gas transmission company
 142 records and records of the natural gas transmission company's
 143 affiliated companies, including its parent company, regarding
 144 transactions or cost allocations among the natural gas
 145 transmission company and such affiliated companies, and such
 146 records necessary to ensure that a natural gas transmission
 147 company's ratepayers do not subsidize unregulated activities.
 148 The authority of the commission to access records under this
 149 section is granted subject to the limitations set forth in s.
 150 350.011(3) and (4).

151 (b) Upon request of the natural gas transmission company
 152 or other person, any records received by the commission which
 153 are shown and found by the commission to be proprietary
 154 confidential business information shall be confidential and
 155 exempt from s. 119.07(1).

156 (c) Upon request of the natural gas transmission company
 157 or other person providing records to the office pursuant to
 158 paragraph (a), any such records received by the office which are
 159 shown by the natural gas transmission company or other person
 160 and found by the commission to be proprietary confidential
 161 business information shall be confidential and exempt from s.
 162 119.07(1) and s. 24(a), Art. I of the State Constitution. This
 163 paragraph is subject to the Open Government Sunset Review Act in
 164 accordance with s. 119.15 and shall stand repealed on October 2,
 165 2014, unless reviewed and saved from repeal through reenactment
 166 by the Legislature.

167 Section 5. The Legislature finds that it is a public
 168 necessity that proprietary confidential business information of

169 telecommunications companies, public utilities, natural gas
 170 transmission companies, affiliated entities, and other persons
 171 that is provided to the Office of Regulatory Staff be made
 172 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 173 of the State Constitution. To effectively carry out its duties
 174 to represent the public interest in proceedings before the
 175 Public Service Commission, it is necessary for the Office of
 176 Regulatory Staff to request and obtain records from entities
 177 subject to the regulatory jurisdiction of the commission and
 178 from related business entities. These records may be obtained
 179 for multiple purposes including, but not limited to, financial,
 180 operations, and management audits; compliance investigations;
 181 earnings surveillance; assistance in processing changes in
 182 rates; and review for subsidies between related entities. Many
 183 of these records contain proprietary confidential business
 184 information, which, if disclosed to the public, could harm the
 185 competitive interests of the regulated entity and its affiliates
 186 and the competitive interests of private entities with which a
 187 regulated entity does business. In addition, disclosure of
 188 proprietary confidential business information could impair the
 189 efforts of the regulated entity or its affiliates to contract
 190 for goods or services on favorable terms, in turn increasing
 191 costs to utility ratepayers, or could compromise security
 192 measures, systems, and procedures related to the provision of
 193 the essential services provided by these regulated entities. As
 194 such, the Legislature finds that it is a public necessity to
 195 make confidential and exempt from public records requirements
 196 proprietary confidential business information of

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197 telecommunications companies, public utilities, natural gas
198 transmission companies, affiliated entities, and other persons
199 provided to the Office of Regulatory Staff in order to ensure
200 the effective and efficient administration of the duties and
201 responsibilities of the office.

202 Section 6. This act shall take effect October 1, 2010, if
203 PCB EUP 10-04 or similar legislation establishing an Office of
204 Regulatory Staff separate from the Public Service Commission,
205 for purposes of representing the public interest on matters
206 within the jurisdiction of the Public Service Commission, is
207 adopted in the same legislative session or an extension thereof
208 and becomes law.