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CHAPTER 11

Radio Common Carriers

ARTICLE 1

Duties, Restrictions, Rights and Changes in Rates

**SECTION 58‑11‑10.** Definitions.

When used in this chapter:

(a) The term “commission” means the Public Service Commission of the State of South Carolina.

(b) The term “commissioner” means one of the members of the Public Service Commission.

(c) The term “corporation” includes all bodies corporate, joint stock companies, or associations, domestic or foreign, their lessees, assignees, trustees, receivers or other successors in interest, having any of the powers or privileges of corporations not possessed by individuals or partnerships.

(d) The term “person” includes all individuals, partnerships or associations other than corporations.

(e) The term “public” means the public generally, or any limited portion of the public, including a person or corporation.

(f) The term “radio common carrier” includes persons and corporations, their lessees, assignees, trustees, receivers, or other successors in interest now or hereafter owning or operating in this State equipment or facilities for the transmission of intelligence by a modulated radio frequency signal, for compensation to the public, including all things incident thereto and related to the operation of radio transmission, but shall not include telephone utilities or services regulated by Articles 1 through 13 of Chapter 9 of Title 58 of the 1976 Code.

(g) The term “intelligence” means the transfer of information either one way, or two way, by tone, data bit, voice, or other means as may be used to convey information to a person, persons, or machine.

(h) The term “rate” means and includes every compensation, charge, toll, rental and classification, or any of them, demanded, observed, charged or collected by any carrier for any communications service offered by it to the public, and any rules, regulations, practices or contracts affecting any such compensation, charge, toll, rental or classification.

(i) The term “securities” means and includes stock, stock certificates, bonds, notes, debentures, or other evidences of indebtedness, and any assumption or guaranty thereof.

(j) The term “service area” shall include that geographical area covered by a radio common carrier system by county unless otherwise specified by the Public Service Commission.

(k) The term “communication service” shall mean a service to transmit audio intelligence by means of a modulated radio frequency signal and shall not include telephone answering services.

(l) The term “regulatory staff” means the executive director or the executive director and the employees of the Office of Regulatory Staff.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 73, eff May 24, 2006; 2006 Act No. 318, Section 74, eff May 24, 2006.

**SECTION 58‑11‑20.** Rates shall be just and reasonable.

Every rate made, demanded, or received by any radio common carrier, or by any two or more radio common carriers jointly, shall be just and reasonable.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑30.** Filing schedules of rates, rules and regulations.

Under such rules and regulations as the commission may prescribe, every radio common carrier shall file with the commission and the Office of Regulatory Staff, within such time and in such form as the commission may designate, schedules showing all rates, rules, and regulations established by it and collected or enforced, or to be collected or enforced within the jurisdiction of the commission, and the radio common carrier shall keep copies of such schedules open to public inspection upon request at reasonable intervals during business hours under such rules and regulations as the commission may prescribe.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 75, eff May 24, 2006.

**SECTION 58‑11‑40.** Compensation different from that in schedule shall not be charged or received.

No radio common carrier shall directly or indirectly, by any device whatsoever, or in any way, charge, demand, collect or receive from any communications person or corporation a greater or less compensation for any service rendered or supplied, or to be rendered or supplied, such radio common carrier, than that prescribed in the schedules of such radio common carrier applicable thereto then filed in the manner provided in this chapter, nor shall any person or corporation receive or accept any service, from a radio common carrier for a compensation greater or less than that prescribed in such schedules.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑50.** Unreasonable preferences and differences in rates shall not be made; reasonable classifications may be established.

No radio common carrier shall, as to rates, or services, make or grant any unreasonable preference or advantage to any person or corporation or subject any person or corporation to any unreasonable prejudice or disadvantage. No radio common carrier shall establish or maintain any unreasonable difference as to rates or service, either as between localities or as between classes of service. Subject to the approval of the Commission, however, radio common carriers may establish classifications of rates and services, and such classifications may take into account the conditions and circumstances surrounding the service, such as the time when used, the purpose for which used, the demand upon plant facilities, the value of the service rendered, the cost of equipment at time of installation, or any other reasonable consideration. The Commission may determine any question arising under this section.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑60.** Procedure for changes in rates initiated by radio common carrier.

Whenever a radio common carrier desires to put into operation a new rate which affects the radio common carrier’s general body of subscribers, the radio common carrier shall give the commission and the Office of Regulatory Staff not less than thirty days’ notice of its intention to file and shall, after the expiration of the notice period, then file with the commission a schedule setting forth the proposed changes; provided, however, a hearing shall not be required when the proposed rate is a proposal to institute or modify an offering or regulation that is not part of a general rate case and does not affect the radio common carrier’s general body of subscribers. Subject to the provisions of subsections (B) and (C) of Section 58‑11‑70, the proposed changes must not be put into effect in full or in part until approved by the commission.

HISTORY: 1975 (59) 598; 1983 Act No. 138 Section 24, eff June 15, 1983; 2006 Act No. 318, Section 76, eff May 24, 2006.

**SECTION 58‑11‑70.** Hearing on new schedule of rates; suspension of new rates pending such hearing; putting new rates into effect despite suspension by filing of bond.

(A) Whenever there is filed with the commission by any radio common carrier, a schedule stating a new rate or rates which affects the radio common carrier’s general body of subscribers, the commission shall, after notice to the Office of Regulatory Staff and the public such as the commission may prescribe, hold a hearing concerning the lawfulness or reasonableness of the rate or rates; provided, however, that when the proposed rate is a proposal to institute or modify an offering or regulation that is not part of a general rate case and does not affect the radio common carrier’s general body of subscribers, the commission may approve such filing with a hearing.

(B) The commission shall rule and issue its order approving or disapproving the changes in full or in part within six months of the time of filing. If the commission rules and issues its order within the time aforesaid, and the radio common carrier shall appeal from the order, by filing with the commission a petition for rehearing, the radio common carrier may put the rate or rates requested in its schedule into effect under bond during the appeal and until final disposition of the case. The bond must be filed with the commission and must be in a reasonable amount approved by the commission, with sureties approved by the commission, conditioned upon the refund, in a manner to be prescribed by order of the commission, to the persons, corporations, or municipalities respectively entitled to the amount of excess, if the rate or rates put into effect are finally determined to be excessive. There may be substituted for the bond other arrangements satisfactory to the commission for the protection of the parties interested. During any period in which a radio common carrier shall charge increased rates under bond, it shall provide records or other evidence of payments made by its subscribers under the rate or rates which the radio common carrier has put into operation in excess of the rate or rates in effect immediately prior to the filing of its schedule.

All increases in rates put into effect under the provisions of this section which are not approved and for which a refund is required shall bear interest at a rate of twelve percent per annum. The interest shall commence on the date the disallowed increase is paid and continue until the date the refund is made.

In all cases in which a refund is due, the commission shall order a total refund of the difference between the amount collected under bond and the amount finally approved.

(C) If the commission fails to rule and issue its order within six months after the date the schedule is filed, the radio common carrier may put into effect the change in rate or rates it requested in its schedule. The change is to be treated as an approval of the new rate schedule by the commission.

(D) After the date the schedule, which affects the radio common carrier’s general body of subscribers, is filed with the commission and the Office of Regulatory Staff, no further rate change request which affects the radio common carrier’s general body of subscribers may be filed until twelve months have elapsed from the date of the filing of the schedule; provided, however, this section shall not apply to a request for a rate reduction.

HISTORY: 1975 (59) 598; 1983 Act No. 138 Section 25, eff June 15, 1983; 2006 Act No. 318, Section 77, eff May 24, 2006.

**SECTION 58‑11‑80.** Service shall be adequate and efficient.

Every radio common carrier shall provide and maintain facilities and equipment to furnish reasonably adequate and efficient service to its customers in this State.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑90.** Commission may permit interconnection of facilities of radio common carriers and telephone utilities; determination of compensation and terms when parties fail to agree.

Whenever the Commission shall find that public convenience and necessity require the interconnection of radio common carrier facilities to facilities of telephone utilities, and that the radio common carrier and telephone utility have failed to agree upon such interconnection or the terms and conditions or compensation for the same, the Commission may order that such interconnection be permitted and prescribe a reasonable compensation, terms and condition for the interconnection.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑100.** Certificate of public convenience as prerequisite to construction or operation of system; applicability to commercial mobile service providers.

(A) No radio common carrier shall begin or continue the construction or operation of a radio common carrier system, either directly or indirectly, without first obtaining from the commission a certificate that the public convenience and necessity requires the construction or operation.

(B) Notwithstanding the provisions of subsection (A) or another provision of law, neither the commission nor the Office of Regulatory Staff may impose requirements related to the terms, conditions, rates, or availability of, or otherwise regulate “commercial mobile service” as that term is presently defined in 47 U.S.C.A. Section 332(d)(1) for as long as Section 332 of 47 U.S.C. or similar federal legislation remains in effect.

(C) Nothing in this section affects any jurisdiction conferred upon the commission by Section 58‑9‑280(E)(3).

(D) Nothing in this section affects the commission’s jurisdiction or authority to address and resolve issues relating to arrangements and compensation between telecommunications carriers and commercial mobile service providers, pursuant to 47 U.S.C. Sections 251 and 252 or pursuant to other applicable provisions of law.

(E) Nothing in this section shall prohibit the commission from applying to commercial mobile service providers that have sought and received designation from the commission, and operate as eligible telecommunications carriers, pursuant to 47 U.S.C. Section 214(e), or as carriers of last resort, as defined in Section 58‑9‑10(10), the same rules, requirements, or standards that are generally applicable to carriers that are subject to alternative regulation under Section 58‑9‑576 and that operate as eligible telecommunications carriers or as carriers of last resort.

HISTORY: 1975 (59) 598; 2005 Act No. 40, Section 1, eff April 15, 2005; 2006 Act No. 318, Section 78, eff May 24, 2006.

**SECTION 58‑11‑110.** Carrier shall file application with Federal Communications Commission.

A radio common carrier upon receiving a certificate of authorization from the Commission shall file with the Federal Communications Commission an application for the service within ninety days from date of certificate as issued by the Commission or on August 15, 1975, whichever is later. The Commission shall revoke any certificate granted should the radio common carrier fail to file with the Federal Communications Commission within the required time set forth above. The radio common carrier shall furnish proof of such Federal Communications Commission filing to the Commission within thirty days after such filing.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑120.** Extension of existing facilities.

Any radio common carrier may establish, construct, maintain, and operate any reasonable extension of its facilities within its service area, after due notice of intent to the commission and the Office of Regulatory Staff by letter, without public hearing before the commission, unless otherwise ordered by the commission.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 79, eff May 24, 2006.

**SECTION 58‑11‑130.** Abandonment of service.

No radio common carrier shall abandon all or any portion of its service to the public, except for ordinary discontinuance of service for nonpayment of lawful charge, or except for violation of rules and regulations approved by the Commission, unless written application is first made to the Commission for the issuance of a certificate and until the Commission in its discretion issues such certificate.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑140.** Sale or other disposition of property, powers, franchises or privileges.

No radio common carrier, without the approval of the Commission after due hearing and compliance with all other existing requirements of the laws of the State in relation thereto, shall sell, transfer, lease, consolidate or merge its property, powers, franchises or privileges or any of them used directly in the conduct of business as a radio common carrier.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑150.** Restrictions on capitalization for rate‑making purposes.

No radio common carrier for rate‑making purposes shall capitalize its franchises, rights, powers, privileges, or right to own and operate or enjoy any such franchise, rights, powers, or privileges in excess of the amount paid to the State or to any political subdivision of the State as the consideration for the grant thereof; or to capitalize any lease, or contract of sale or contract for consolidation or merger of two or more radio common carriers; or issue by way of substitution any capital stock, trust certificates, bonds, notes, or other evidences of indebtedness, or other securities for any consolidated or merged company exceeding the aggregate value of the properties so consolidated or merged and any additional property or labor actually contributed in cash, and any additional property or labor actually contributed; provided, that the determination of such consideration or value as aforesaid shall be subject to the approval of the Commission.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑160.** Systems of accounts.

The Office of Regulatory Staff may, in its discretion, subject to approval of the commission, prescribe systems of accounts to be kept by radio common carriers subject to its jurisdiction, and it may prescribe the manner in which the accounts shall be kept, and may require every radio common carrier to keep its books, papers, and records accurately and faithfully according to the system of accounts as prescribed by the Office of Regulatory Staff; provided, however, that nothing in this section shall be construed to be in conflict with or in violation of the provisions of the Communications Act of Congress of 1934, as amended (U.S.C.A. Title 47, Sections 151 through 609), nor shall they be construed to be in conflict with any lawful order of the Federal Communications Commission issued pursuant to the authority invested in it by such act of Congress.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 80, eff May 24, 2006.

**SECTION 58‑11‑170.** Depreciation and retirement charges.

Every radio common carrier shall have the right, and may be so required, to charge annually as an operating expense a reasonable sum for depreciation and credit the same to a reserve account for such purpose, which reserve account shall be charged with plant retirements, but if the reserve thus created shall at any time in the judgment of the Commission be excessive, the Commission after due hearing shall make such order as will result in credits to such reserve thereafter conforming to actual facts and conditions as ascertained by the Commission; provided, that the Commission shall have the right and power to control or limit such depreciation reserve; provided, further, that nothing in this section shall be construed to be in conflict with or in violation of the provisions of the Communications Act of Congress of 1934, as amended (U.S.C.A. Title 47, Sections 151 through 609), nor shall they be construed to be in conflict with any lawful order of the Federal Communications Commission issued pursuant to the authority invested in it by such act of Congress.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑180.** Transactions with affiliates.

When in the judgment of the Commission there is a reasonably substantial affiliation of any radio common carrier engaged in business in this State with any other corporation or person or when in the judgment of the Commission any other corporation or person either exercises, or is in position to exercise, by reason of ownership or control of securities or for any other cause, any reasonably substantial control over the business or policies of any radio common carrier engaged in business in this State, the burden of proof shall be upon the radio common carrier to establish as determined by the Commission the reasonableness, fairness, and absence of injurious effect upon the public interest of any fees or charges growing out of any transactions between any radio common carrier and such other corporation or person. Every radio common carrier shall be required to produce, if so ordered by the Commission, for the information of the commission and the public, all such contracts, papers, and documents relating thereto and explanatory thereof as may be required by the Commission, and unless the reasonableness of such fees and charges is established, as determined by the Commission, the same shall not be allowed by the Commission for rate‑making purposes.

The Commission shall not allow for rate‑making purposes any fees or expenses included in any contract or agreement with an affiliate representing charges that the Commission has directly disallowed in its rate‑making orders.

HISTORY: 1975 (59) 598; 1983 Act No. 138 Section 15, eff June 15, 1983.

**SECTION 58‑11‑190.** Participation in profits from efficiency.

For the purposes of encouraging economy, efficiency, and improvements in methods of service any radio common carrier may participate, subject to the approval of the Commission, to such extent as may be permitted by the Commission, in the additional profits arising from any economy, efficiency or improvement in methods or service instituted by such radio common carrier.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑200.** Annual and special reports.

The Office of Regulatory Staff may require any radio common carrier to file annual reports in such form and of such content as the Office of Regulatory Staff may require and special reports concerning any matter about which the Office of Regulatory Staff is authorized to inquire or to keep itself informed, or which it is required to enforce. All reports shall be under oath when required by the Office of Regulatory Staff. At the same time a radio common carrier files a report with the Office of Regulatory Staff, it also must provide a copy to the commission.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 81, eff May 24, 2006.

**SECTION 58‑11‑210.** Companies subject to chapter even before commencing operations.

Corporations formed to acquire property, or to transact business which would be subject to the provisions of this chapter, and corporations possessing franchises, powers or privileges for any of the purposes contemplated by this chapter shall be deemed to be subject to the provisions of this chapter, although no property may have been acquired, business transacted or franchises, powers or privileges exercised.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑220.** Office in State.

Each radio common carrier shall have an office in one of the counties of this State in which its property or some part thereof is located, and shall keep in such office all books, accounts, papers, and records, as shall reasonably be required by the Office of Regulatory Staff to be kept within the State. No books, accounts, papers, or records required by the Office of Regulatory Staff to be kept within the State shall be removed at any time from the State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 82, eff May 24, 2006.

**SECTION 58‑11‑230.** Compliance with orders and regulations.

Each radio common carrier shall obey and comply with each and every requirement of every order, decision, direction, rule, or regulation made or prescribed by the commission and every direction, rule, or regulation made or prescribed by the Office of Regulatory Staff in the performance of their duties under this chapter, or in relation to any other matter in any way relating to or affecting the business of such radio common carrier, and shall do everything necessary or proper in order to secure compliance with and observance of every order, decision, direction, rule, or regulation by all of its officers, agents, and employees.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 83, eff May 24, 2006.

**SECTION 58‑11‑240.** Procedure for issuance of securities by nonmunicipal radio common carriers.

No radio common carrier, except municipalities, shall issue any securities, as in this chapter defined, without the approval of the commission. Any radio common carrier, except a municipality, desiring to issue any securities may apply to the commission for approval of any proposed issue by filing with the commission and providing to the Office of Regulatory Staff an application, together with a statement verified by its president and secretary, or other proper officers, or two of its incorporators, or by its owner, or owners, if it has no such officers, setting forth:

(1) the amount and character of securities proposed to be issued;

(2) the purpose for which they are to be issued;

(3) the consideration for which they are to be issued;

(4) the description and estimated value of any property, if any, to be acquired through the proposed issue;

(5) the terms and conditions of their issuance;

(6) the financial condition of the radio common carrier and its previous operations so far as relevant. The commission, after giving notice and opportunity to be heard to the radio common carrier and the Office of Regulatory Staff, shall determine whether the purpose of the issue is proper, it shall value the property or services, if any, to be acquired by the issue, if any, it shall find and determine the amount of such securities reasonably necessary for the purpose for which they are to be issued, and to the extent that the commission may approve the proposed issue it shall grant to the radio common carrier a certificate of authority stating:

[1] the amount of such securities reasonably necessary for the purpose for which they are to be issued, and the character of such securities; and

[2] the value of any property or services, if any, to be acquired thereby.

Such radio common carrier shall not issue any securities in greater amounts than specified in such certificate and shall apply the proceeds of such issue to the purposes specified in its petition. Nothing herein contained shall apply to any issue of securities payable within one year from the date thereof, except in case of issues made to refund such short time obligations, but such short time obligations may be renewed by similar obligations without the approval of the commission for an aggregate of not exceeding two years. Nothing herein contained shall be construed to impose or imply any guaranty or obligation as to such securities on the part of the State of South Carolina, or any agency thereof, nor shall the commission by virtue of the approval of the issuance of such securities be deemed to be required to prescribe or approve any rate for the reason that such rate may be necessary to provide funds reasonably sufficient to retire such securities or the interest thereon.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 84, eff May 24, 2006.

**SECTION 58‑11‑250.** Radio common carriers shall not permit employees to sell securities of others during employment nor require them to purchase any securities.

No radio common carrier shall permit any employee to sell, offer for sale, or solicit the purchase of any security of any other person or corporation during such hours as such employee is engaged to perform any duty of such radio common carrier; nor shall any radio common carrier by any means or device whatsoever require any employee to purchase or contract to purchase any of its securities or those of any other person or corporation; nor shall any radio common carrier require any employee to permit the deduction from his wages or salary of any sum as a payment or to be applied as a payment on any purchase or contract to purchase any securities of such radio common carrier or of any other person or corporation.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑260.** Revocation of certificate of authorization upon revocation of articles of incorporation.

If the articles of incorporation of any radio common carrier are revoked by the Secretary of State, the Public Service Commission shall immediately revoke the certificate of authorization granted to such carrier. Whenever such certificate is revoked for any cause, the Office of Regulatory Staff and the appropriate bureau of the Federal Communications Commission shall be promptly notified of such revocation by the Public Service Commission.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 85, eff May 24, 2006.

**SECTION 58‑11‑270.** Commission shall furnish forms and information so as to permit orderly compliance by carriers.

All report forms required to be completed by carriers pursuant to the provisions of this chapter and any other information necessary to enable carriers to remain in compliance with such provisions shall be furnished by the Public Service Commission to all carriers on a time schedule which will permit orderly compliance by the carriers.

HISTORY: 1975 (59) 598.

ARTICLE 3

Powers of Commission

**SECTION 58‑11‑410.** Changes of rates; factors considered in determining reasonable rates.

Whenever the commission after a hearing finds that the existing rates in effect and collected by any radio common carrier for any service are unjust, unreasonable, insufficient, or unreasonably discriminatory, or in any way in violation of any provision of law, the commission shall determine the just, reasonable, and sufficient rates to be thereafter observed and in force, and shall fix such rates by its order. In determining just, reasonable, and sufficient rates the commission shall give due consideration to the radio common carrier’s property devoted to the public service; the revenues received for the service; the reasonable operating expenses and other costs necessary to provide the service; the total earnings required for the proper discharge of the radio common carrier’s public duty; the capitalization of the radio common carrier and the net income required on its net worth; and such other matters, circumstances, and conditions as the commission may find necessary. Provided, that the rates so fixed shall not be higher than necessary to give a fair return to the stockholders.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 86, eff May 24, 2006.

**SECTION 58‑11‑420.** Orders for more reasonably adequate and efficient service.

Whenever the commission, after hearing, finds that the service of any radio common carrier is not reasonably adequate and efficient, the commission shall make its findings and issue an order thereon requiring such radio common carrier to provide reasonably adequate and efficient service.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 87, eff May 24, 2006.

**SECTION 58‑11‑430.** Miscellaneous regulations.

The commission may ascertain and fix just and reasonable classification, regulations, practices, or service to be furnished, imposed, observed, and followed by any or all radio common carriers; prescribe reasonable regulations for the examination and testing of such service and for the measurement thereof; establish or approve reasonable rules, regulations, specifications, and standards; and provide for the examination and testing of any and all appliances used for the service of any radio common carrier.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 88, eff May 24, 2006.

**SECTION 58‑11‑440.** Fixing value of carrier.

The Commission may after hearing ascertain and fix the value of the whole or any part of the property of any radio common carrier insofar as such property is material to the exercise of the jurisdiction of the Commission.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑450.** Investigations.

The Office of Regulatory Staff may investigate and examine the condition and operation of radio common carriers or any particular radio common carrier.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 89, eff May 24, 2006.

**SECTION 58‑11‑460.** Reparation orders; suit to enforce order.

When petition has been made to the commission concerning any rate or charge for service performed by any radio common carrier, and the commission has found after hearing that the radio common carrier has charged an unreasonable, excessive, or discriminatory amount for such service, the commission may order that the radio common carrier make due reparation to the complainant therefor, with interest from the date of collection; provided, such reparation will not result in establishing unreasonable discrimination and provided, further, that no order for the payment of reparation upon the ground of unreasonableness shall be made by the commission in any instance wherein the rate or charge in question has been authorized by law, and, provided, further, that no assignment of a reparation claim shall be recognized by the commission except assignments by operation of law as in case of death, insanity, bankruptcy, receivership, or order of court. If the radio common carrier does not comply with the order for the payment of reparation within the time specified in such order, suit may be instituted in any court of competent jurisdiction to recover such reparation and upon trial of such suit a duly certified copy of the order of the commission shall be prima facie evidence of the facts therein set forth. All complaints concerning unreasonable, excessive, or discriminatory charges on which reparation orders may be made shall be filed with the commission and provided to the Office of Regulatory Staff within two years from the time the cause of action accrues, and the suit for enforcement of the order shall be commenced in the court within one year from the date of the order of the commission. The remedy provided in this section shall be cumulative and in addition to any other remedy or remedies in this chapter for failure of a radio common carrier to obey an order or decision of the commission. The commission must not be a party to any proceeding.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 90, eff May 24, 2006.

**SECTION 58‑11‑470.** Commission shall not grant certificate for operation or extension into established service area unless necessary for public convenience and necessity.

The Commission shall not grant a certificate for a proposed radio common carrier operation or extension thereof into an established service area of another certified radio common carrier unless after hearing it shall be shown by the applicant that public convenience and necessity will be best met by the radio common carrier being granted authority to serve such area.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑480.** Applicant for certificate for operation or extension into established service area shall notify carrier in that area.

Should application be made for a proposed radio common carrier operation or extension thereof into a service area, or portion thereof, of another certified radio common carrier, the applicant shall notify the radio common carrier with copies of all information filed with the commission and provided to the Office of Regulatory Staff within ten days from the date filed with the commission.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 91, eff May 24, 2006.

**SECTION 58‑11‑490.** Inspections of property; audits of records; examinations of officers and employees.

The Office of Regulatory Staff at any reasonable time shall have the right to inspect the property, plant, and facilities of any radio common carrier, and to inspect or audit at reasonable times the accounts, books, papers, and documents of any radio common carrier, and for the purposes herein mentioned are authorized to examine under oath any officer, agent, or employee of such radio common carrier in relation to the business and affairs of such radio common carrier, but written record of the testimony or statement so given under oath shall be made.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 92, eff May 24, 2006.

**SECTION 58‑11‑500.** Inspection and copying of tax returns, reports and other information.

In the performance of its duties under this chapter, the Office of Regulatory Staff is hereby authorized to inspect or make copies of all income, property, or other tax returns, reports, or other information filed by radio common carrier with or otherwise obtained by any other department, commission, board, or agency of the state government.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 93, eff May 24, 2006.

**SECTION 58‑11‑510.** Joint investigations, hearings and orders with other state or Federal boards or commissions.

The commission may hold joint hearings and issue joint or concurrent orders in conjunction or concurrence with any official board or commission of any state or of the United States. The Office of Regulatory Staff may make joint investigations with any official board or commission of any state or of the United States.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 94, eff May 24, 2006.

**SECTION 58‑11‑520.** Actions to discontinue or prevent violation of law or order.

Whenever it shall appear that any radio common carrier is failing or omitting, or about to fail or omit, to do anything required of it by law or by order of the commission or the Office of Regulatory Staff, or is doing anything, or about to do anything, or permitting anything, or about to permit anything, to be done contrary to or in violation of law or of any order of the commission, an action or proceeding shall be prosecuted by the Office of Regulatory Staff in any court of competent jurisdiction in the name of the Office of Regulatory Staff for the purpose of having such violation or threatened violation discontinued or prevented, either by mandamus, injunction, or other appropriate relief, and in such action or proceeding it shall be permissible to join such other persons or corporations as parties thereto as may be reasonably necessary to make the order of the court in all respects effective.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 95, eff May 24, 2006.

**SECTION 58‑11‑530.** Hearing before one or more commissioners; approval and filing.

Any hearing which the commission has power to hold may be held before any one or more of the commissioners, upon condition, however, that the commissioner or commissioners shall have been authorized by the commission to hold the hearing. Any determination, ruling, or order of a commissioner or commissioners, upon any hearing, shall not become effective until due notice has been given to the commission and the Office of Regulatory Staff and has been approved and confirmed by at least a quorum of the commission and ordered to be filed in its office; provided, that any such determination involving the fixing or regulation of general schedule of rates shall not become effective until due notice has been given the radio common carrier concerned and an opportunity has been given such carrier to be heard before, and the same has been approved and confirmed by, at least a quorum of the commission. Upon such confirmation and order, such determination, ruling, or order shall be the determination, ruling, or order of the commission. In any hearing now pending or which may hereafter be instituted, the commission is hereby authorized to employ a hearing officer who shall have power to administer oaths and receive evidence in any locality which the commission, having regard to the public convenience and the proper discharge of its functions and duties, may designate. The testimony and evidence so taken or received shall have the same force and effect as if taken or received by the commission, or any one or more of the commissioners as above provided.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 96, eff May 24, 2006.

**SECTION 58‑11‑540.** Promulgation of rules and regulations.

The Commission may make such rules and regulations not inconsistent with law as may be proper in the exercise of its powers or for the performance of its duties under this chapter, all of which shall have the force of law.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑550.** Rules governing pleadings, practice and procedure.

The Commission is authorized to prescribe rules governing pleadings, practice and procedures not inconsistent with the provisions of this chapter or any other provisions of law. The provisions of Articles 1 through 13 of Chapter 9, Title 58 of the 1976 Code shall be applicable to all hearing and appellant procedures of the Commission in relation to radio common carriers, including penalty provisions, specifically including but not limited to matters provided for in Articles 9, 11 and 13 of Chapter 9 of the 1976 Code.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑560.** Enforcement powers generally.

In addition to the foregoing expressly enumerated powers the Commission shall have full power and authority, and it shall be its duty to enforce, execute, administer, and carry out by its order, ruling, regulation, or otherwise, all the provisions of this chapter and any other provisions of law regulating radio common carriers.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑570.** Employment of technical, administrative and clerical staff.

The Commission shall have power to employ such technical, administrative and clerical staff as it may deem necessary to carry out the provisions of this chapter and to perform the duties and exercise the powers conferred upon it by law.

HISTORY: 1975 (59) 598.

**SECTION 58‑11‑580.** Enumeration of powers not exclusive.

The enumeration of the powers of the commission and the Office of Regulatory Staff as herein set forth shall not be construed to exclude the exercise of any power which the commission and the Office of Regulatory Staff would otherwise have under the provisions of law.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 97, eff May 24, 2006.

**SECTION 58‑11‑590.** Repealed by 2006 Act No. 318, Section 233, eff May 24, 2006.

Editor’s Note

Former Section 58‑11‑590 was entitled “Other powers not affected” and derived from 1975 (59) 598.

**SECTION 58‑11‑600.** Chapter shall not affect municipalities, interstate commerce or private or cost‑shared systems; certain restrictions on cost‑shared systems.

(a) Nothing contained in this chapter shall be so construed as to modify, abridge or impair any of the rights or powers granted to cities and towns under any provision of the Constitution of this State and every right, power or privilege conferred upon any city or town by the Constitution of this State, otherwise appearing to be modified, abridged or impaired by any provision of this chapter, is to be deemed excepted from the operation thereof.

(b) Nothing contained in this chapter shall be so construed as to limit or restrict the right of cities and towns to adopt and enforce reasonable police regulations and ordinances affecting radio common carriers, not inconsistent with the provisions of this chapter, in the interest of public safety, morals, convenience, health and good order.

(c) Neither this chapter nor any provision thereof shall apply or be construed to apply to commerce among the several states of the United States, except insofar as the same may be permitted under the provisions of the Constitution of the United States and the Acts of Congress.

(d) The provisions of this chapter shall not be construed to limit or restrict the rights or operations of private or cost‑shared systems as herein defined. “Private system” means a system used by a single licensee. “Cost‑shared system” means a system for which more than one person is licensed to operate on the same frequencies and who use the same common facilities. “Licensee” as used herein means a person licensed to operate a system by the Federal Communications Commission.

No cost‑shared system shall directly or indirectly, by any device whatsoever, charge, demand, collect or receive from any person a greater or lesser compensation for any communication service rendered or supplied or to be rendered or supplied to the users and owners of the system. All equipment common to such systems shall be jointly owned or leased by the users thereof.

All cost‑shared systems shall annually report to the Public Service Commission and the Office of Regulatory Staff a record of all compensation received from or charged to users of the system.

HISTORY: 1975 (59) 598; 2006 Act No. 318, Section 98, eff May 24, 2006.