

By: Representative Creel

To: Public Utilities

HOUSE BILL NO. 1041

1 AN ACT TO AMEND SECTION 77-3-13, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE PUBLIC SERVICE COMMISSION TO ISSUE MORE THAN ONE
3 COMPETING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO
4 PROVIDE NATURAL GAS SERVICE IN THE SAME GEOGRAPHICAL AREA; AND FOR
5 RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 SECTION 1. Section 77-3-13, Mississippi Code of 1972, is
8 amended as follows:

9 77-3-13. (1) The commission shall issue a certificate of
10 convenience and necessity to any person engaged in the
11 construction or operation of such equipment or facility as is
12 mentioned in subsection (1) of Section 77-3-11 on March 29, 1956,
13 for the construction or operation then being conducted, without
14 requiring proof that public convenience and necessity will be
15 served by such construction or operation, and without further
16 proceedings, if application for such certificate shall have been
17 made to the commission within six (6) months after March 29, 1956.
18 Any utility covered by this chapter which has heretofore been
19 under the jurisdiction of the commission shall, upon application
20 within six (6) months of March 29, 1956, be issued a certificate
21 authorizing it to conduct operations and make extensions within
22 any area covered by its service area map or maps on file with the
23 commission on March 29, 1956.

24 (2) The commission shall issue a certificate of convenience
25 and necessity to any person engaged in the construction or
26 operation of a sewage disposal service as mentioned in subsection
27 (2) of Section 77-3-11 on August 9, 1968, for the construction or
28 operation then being conducted, without requiring proof that

29 public convenience and necessity will be served by such
30 construction or operation, and without further proceedings, if
31 application for such certificate shall have been made to the
32 commission within six (6) months after August 9, 1968. Pending
33 the filing of such application and the issuance of a certificate,
34 the continuance of such construction or operation shall be lawful.

35 Except as otherwise specifically provided by subsection (2)
36 of Section 77-3-11 or by this subsection, that portion of the
37 business of a public utility dealing with the operation of a
38 sewage disposal service as provided by subsection (2) of Section
39 77-3-11 shall be subject to provisions of this chapter, in like
40 manner and with like effect as if such business had been included
41 within the definition of a "public utility" in the original
42 enactment of this chapter.

43 (3) In all other cases, the commission shall set the
44 matter for hearing, and shall give reasonable notice of the
45 hearing thereon to all interested persons as in its judgment may
46 be necessary under its rules and regulations, involving the
47 financial ability and good faith of the applicant, the necessity
48 for additional services and such other matters as the commission
49 deems relevant. The commission may issue a certificate of public
50 convenience and necessity, or refuse to issue the same or issue it
51 for the establishment or construction of a portion only of the
52 contemplated plant, route, line or system, or extension thereof,
53 or for the partial exercise only of such right or privilege, and
54 may attach to the exercise of the rights granted by the
55 certificate such reasonable terms and conditions as to time or
56 otherwise as in its judgment the public convenience, necessity and
57 protection may require, and may forfeit such certificate after
58 issuance for noncompliance with its terms, or provide therein for
59 an ipso facto forfeiture of the same for failure to exercise the
60 rights granted within the time fixed by the certificate.

61 * * * However, nothing in this section shall be construed as

62 requiring such certificate for a municipally owned plant, project
63 or development, route, line or system or extension thereof in
64 areas not certificated to another utility. * * * Further, no
65 certificate shall be required for extensions or additions within
66 the corporate limits of a municipality being served by the holder
67 of a certificate of convenience and necessity.

68 (4) The commission shall, prior to issuing a certificate of
69 public convenience and necessity to a public utility for any new
70 construction, extension or addition to its property, ascertain
71 that all labor, materials, property or services to be rendered for
72 any proposed project will be supplied at reasonable prices. The
73 commission shall, after issuance of a certificate for facilities
74 estimated to cost Five Million Dollars (\$5,000,000.00) or more or
75 estimated to cost an amount equal to one percent (1%) of the rate
76 base allowed by the commission in the utility's last rate case,
77 whichever is greater, assign the public utilities staff to monitor
78 such projects, to inspect periodically construction in progress,
79 and to report to the commission any variances or deviations as
80 found, if any, and to file progress reports thereon with the
81 commission. Such public utility shall file a similar report with
82 the commission at such times and in such form as the commission
83 shall require, including any substantial changes in plans and
84 specifications, cost allocations, construction schedule and funds
85 available to complete the project.

86 (5) The commission may issue a temporary certificate in
87 cases of emergency, to assure maintenance of adequate service or
88 to serve particular customers, without notice or hearing, pending
89 the determination of an application for a certificate, and may by
90 regulation exempt from the requirements of Section~us~w 77-3-11
91 through 77-3-21: (a) temporary acts or operations for which the
92 issuance of a certificate will not be required in the public
93 interest; and (b) extensions or additions of service facilities
94 outside of municipalities under such general rules as will promote

95 the prompt availability of such service to prospective users, and
96 at the same time prevent unnecessary and uneconomic duplication of
97 such facilities as between two (2) or more persons.

98 (6) Prior to the acquisition pursuant to Section 77-3-17
99 or other provisions of law, by any public agency, authority,
100 district, state or other agency, institution or political
101 subdivision thereof, of any certificate of public convenience and
102 necessity or portion thereof, service areas or portion thereof, or
103 operating rights or portion thereof, issued or granted by the
104 commission pursuant to the provisions of this section * * * and/or
105 the facilities or other properties and equipment of the utility
106 providing service therein; of any regulated utility as defined in
107 Section 77-3-3(d)(i), (ii) and (iii), the commission shall first
108 determine if such service area, certificate of public convenience
109 and necessity, or operating right, or portions thereof, should be
110 cancelled as provided in Section 77-3-21.

111 (7) The commission may issue more than one (1) competing
112 certificate of public convenience and necessity to provide
113 services or commodities described in Section 77-3-3(d)(ii) in the
114 same geographical area; however, the issuing of any additional
115 certificates may not affect otherwise any certificate of public
116 convenience and necessity issued before July 1, 2001, to any
117 provider of those services or commodities.

118 (8) Notwithstanding any provision of this section to the
119 contrary, the certificate as applied for may be granted without a
120 hearing in uncontested cases; however, the commission may hear any
121 uncontested case if it determines that the public interest will be
122 served thereby.

123 SECTION 2. This act shall take effect and be in force from
124 and after July 1, 2001.