SENATE BILL NO. 2365

AN ACT TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE MISSISSIPPI PUBLIC SERVICE COMMISSION TO REGULATE CABLE TELEVISION SYSTEMS; AND FOR RELATED PURPOSES.

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

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

77-3-3. As used in this chapter:

(a) The term "corporation" includes a private or public corporation, a municipality, an association, a joint stock association or a business trust.

(b) The term "person" includes a natural person, a partnership of two (2) or more persons having a joint or common interest, a cooperative, nonprofit, limited dividend or mutual association, a corporation, or any other legal entity.

(c) The term "municipality" includes any incorporated city, town or village.

(d) The term "public utility" includes persons and corporations, or their lessees, trustees and receivers now or hereafter owning or operating in this state equipment or facilities for:

(i) The generation, manufacture, transmission or distribution of electricity to or for the public for compensation;

(ii) The transmission, sale, sale for resale, or distribution of natural, artificial, or mixed natural and artificial gas to the public for compensation by means of transportation, transmission, or distribution facilities and equipment located within this state; however, said term shall not
include the production and gathering of natural gas, the sale of
natural gas in or within the vicinity of the field where produced,
or the distribution or sale of liquefied petroleum gas or the sale
to the ultimate consumer of natural gas for use as a motor vehicle
fuel;

(iii) The transmission, conveyance or reception of
any message over wire, or by radio, or otherwise, of writing,
signs, signals, pictures and sounds of all kinds by or for the
public, where such service is offered to the public for
compensation, and the furnishing, or the furnishing and
maintenance, of equipment or facilities to the public, for
compensation, for use as a private communications system or part
thereof; however, no person or corporation not otherwise a public
utility within the meaning of this chapter shall be deemed such
solely because of engaging in this state in the furnishing, for
private use as last aforementioned, and moreover, nothing in this
chapter shall be construed to apply to television stations or
radio stations. A cable television system or community antenna
television (CATV) service shall be considered to be a public
utility for the purposes of this chapter and shall be subject to
the provisions of this chapter; and

(iv) The transmission, distribution, sale or
resale of water to the public for compensation, or the collection,
transmission, treatment or disposal of sewage, or otherwise
operating a sewage disposal service, to or for the public for
compensation.

The term "public utility" shall not include any person not
otherwise a public utility, who furnishes the services or
commodity described in this paragraph (d) only to himself, his
employees or tenants as an incident of such employee service or
tenancy, provided that such services are not sold or resold to
such tenants or employees on a metered or consumption basis.
A public utility's business other than of the character defined in subparagraphs (i) to (iv) of this paragraph (d) is not subject to the provisions of this chapter.

(e) The term "rate" means and includes every compensation, charge, fare, toll, rental and classification, or the formula or method by which such may be determined, or any of them, demanded, observed, charged or collected by any public utility for any service, product or commodity described in this section, offered by it to the public, and any rules, regulations, practices or contracts relating to any such compensation, charge, fare, toll, rental or classification; however, the term "rate" shall not include charges for electrical current furnished, delivered or sold by one public utility to another for resale.

(f) The word "commission" shall refer to the Public Service Commission of the State of Mississippi, as now existing, unless otherwise indicated.

(g) The term "affiliated interest" or "affiliate" includes:

(i) Any person or corporation owning or holding, directly or indirectly, twenty-five percent (25%) or more of the voting securities of a public utility;

(ii) Any person or corporation in any chain of successive ownership of twenty-five percent (25%) or more of the voting securities of a public utility;

(iii) Any corporation of which fifteen percent (15%) or more of the voting securities is owned or controlled, directly or indirectly, by a public utility;

(iv) Any corporation twenty-five percent (25%) or more of the voting securities of which is owned or controlled, directly or indirectly, by any person or corporation that owns or controls, directly or indirectly, twenty-five percent (25%) or more of the voting securities of any public utility or by any
person or corporation in any chain of successive ownership of twenty-five percent (25%) of such securities;

(v) Any person who is an officer or director of a public utility or of any corporation in any chain of successive ownership of fifteen percent (15%) or more of voting securities of a public utility; or

(vi) Any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a public utility, or over which a public utility exercises such control, or that is under a common control with a public utility, such control being the possession, directly or indirectly, of the power to direct or cause the discretion of the management and policies of another, whether such power is established through ownership of voting securities or by any other direct or indirect means.

Provided, however, the term "affiliated interest" or "affiliate" shall not include a joint agency organized pursuant to Sections 77-5-701 et seq., as now or hereafter amended, nor a member municipality thereof.

(h) The term "facilities" includes all the plant and equipment of a public utility, used or useful in furnishing public utility service, including all real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished or supplied for, by or in connection with its public utility business.

(i) The term "cost of service" includes operating expenses, taxes, depreciation, net revenue and operating revenue requirement at a claimed rate of return from public utility operations.

(j) The term "lead-lag study" includes an analysis to determine the amount of capital which investors in a public
utility, the rates of which are subject to regulation under the provisions of this chapter, must provide to meet the day-to-day operating costs of the public utility prior to the time such costs are recovered from customers, and the measurement of (i) the lag in collecting from the customer the cost of providing service, and (ii) the lag in paying the cost of providing service by the public utility.

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