HOUSE BILL NO. 800

1 AN ACT TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE INTERNET SERVICE PROVIDERS IN THE DEFINITION OF THE TERM
3 "PUBLIC UTILITY" AS USED TO DESCRIBE THE JURISDICTION OF THE
4 PUBLIC SERVICE COMMISSION; 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, "public utility"
does 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, or access to, any message or data over wire,
telecommunications lines, radio, or otherwise, which message or
data consists of writing, signs, signals, pictures and/or sounds
of all kinds by or for the public, where such service is offered
to the public for compensation, including services that provide
access to the Internet (Internet service providers), 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, radio stations or
community television antenna services; 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 ** only to himself, his
employees or tenants as an incident of such employee service or
tenancy, if 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 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.

* * * However, the term "affiliated interest" or "affiliate" shall not include a joint agency organized pursuant to Article 15, Chapter 5, Title 77, Mississippi Code of 1972, 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, 2002.