

By: Representative Ellis

To: Public Utilities

HOUSE BILL NO. 997

1 AN ACT TO AMEND SECTION 77-3-13, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT MUNICIPAL UTILITIES ARE NOT REQUIRED TO OBTAIN A
3 CERTIFICATE OF CONVENIENCE AND NECESSITY FOR OPERATING WITHIN ONE
4 MILE OF THE CORPORATE LIMITS AND THAT MUNICIPAL UTILITIES MAY NOT
5 OPERATE IN AREAS CERTIFICATED TO ANOTHER UTILITY; AND FOR RELATED
6 PURPOSES.

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

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

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

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



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

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

44 (3) In all other cases, the commission shall set the matter
45 for hearing, and shall give reasonable notice of the hearing
46 thereon to all interested persons, as in its judgment may be
47 necessary under its rules and regulations, involving the financial
48 ability and good faith of the applicant, the necessity for
49 additional services and such other matters as the commission deems
50 relevant. The commission may issue a certificate of public
51 convenience and necessity, or refuse to issue the same or issue it
52 for the establishment or construction of a portion only of the
53 contemplated plant, route, line or system, or extension thereof,
54 or for the partial exercise only of such right or privilege, and
55 may attach to the exercise of the rights granted by the
56 certificate such reasonable terms and conditions as to time or
57 otherwise as, in its judgment, the public convenience, necessity
58 and protection may require, and may forfeit such certificate after
59 issuance for noncompliance with its terms, or provide therein for
60 an ipso facto forfeiture of the same for failure to exercise the
61 rights granted within the time fixed by the certificate. * * *
62 However, nothing in this section shall be construed as requiring



63 such certificate for a municipally owned plant, project or
64 development, route, line or system or extension thereof in areas
65 within one (1) mile of the corporate boundaries which are not
66 certificated to another utility, and nothing in this chapter or
67 other provision of law shall be construed as allowing a
68 municipally owned plant, project or development, route, line or
69 system or extension thereof in areas certificated to another
70 utility. * * * No certificate shall be required for extensions or
71 additions within the corporate limits of a municipality being
72 served by the holder of a certificate of convenience and
73 necessity.

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

92 (5) The commission may issue a temporary certificate in
93 cases of emergency, to assure maintenance of adequate service or
94 to serve particular customers, without notice or hearing, pending
95 the determination of an application for a certificate, and may by



96 regulation exempt from the requirements of Section 77-3-11 through
97 77-3-21: (a) temporary acts or operations for which the issuance
98 of a certificate will not be required in the public interest; and
99 (b) extensions or additions of service facilities outside of
100 municipalities under such general rules as will promote the prompt
101 availability of such service to prospective users, and at the same
102 time prevent unnecessary and uneconomic duplication of such
103 facilities as between two (2) or more persons.

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

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

122 **SECTION 2.** This act shall take effect and be in force from
123 and after its passage.

