

By: Representatives Dedeaux, Creel

To: Public Utilities

HOUSE BILL NO. 1542

1 AN ACT TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE CABLE TELEVISION SYSTEMS IN THE DEFINITION OF PUBLIC
3 UTILITIES AS USED TO DESCRIBE THE JURISDICTION OF THE PUBLIC
4 SERVICE COMMISSION; AND FOR RELATED PURPOSES.

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

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

8 77-3-3. As used in this chapter:

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

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

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

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

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

24 (ii) The transmission, sale, sale for resale, or
25 distribution of natural, artificial, or mixed natural and
26 artificial gas to the public for compensation by means of
27 transportation, transmission, or distribution facilities and
28 equipment located within this state; however, this term shall not



29 include the production and gathering of natural gas, the sale of
30 natural gas in or within the vicinity of the field where produced,
31 or the distribution or sale of liquefied petroleum gas or the sale
32 to the ultimate consumer of natural gas for use as a motor vehicle
33 fuel;

34 (iii) The transmission, conveyance or reception of
35 any message over a cable system, wire, * * * by radio, or
36 otherwise, of writing, signs, signals, pictures and sounds of all
37 kinds by or for the public, including the transmission to multiple
38 subscribers of video programming or other programming services,
39 where such service is offered to the public for compensation, and
40 the furnishing, or the furnishing and maintenance, of equipment or
41 facilities to the public, for compensation, for use as a private
42 communications system or part thereof; however, * * * nothing in
43 this chapter shall be construed to apply to television stations,
44 radio stations or community television antenna services; and

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

50 The term "public utility" shall not include any person not
51 otherwise a public utility, who furnishes the services or
52 commodity described in this paragraph (d) only to himself, his
53 employees or tenants as an incident of such employee service or
54 tenancy, provided that such services are not sold or resold to
55 such tenants or employees on a metered or consumption basis.

56 A public utility's business other than of the character
57 defined in subparagraphs (i) to (iv) of this paragraph * * * is
58 not subject to the provisions of this chapter.

59 (e) The term "rate" means and includes every
60 compensation, charge, fare, toll, rental and classification, or
61 the formula or method by which such may be determined, or any of



62 them, demanded, observed, charged or collected by any public
63 utility for any service, product or commodity described in this
64 section, offered by it to the public, and any rules, regulations,
65 practices or contracts relating to any such compensation, charge,
66 fare, toll, rental or classification; however, the term "rate"
67 shall not include charges for electrical current furnished,
68 delivered or sold by one public utility to another for resale.

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

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

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

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

80 (iii) Any corporation of which fifteen percent
81 (15%) or more of the voting securities is owned or controlled,
82 directly or indirectly, by a public utility;

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

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



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

104 * * * However, the term "affiliated interest" or "affiliate"
105 shall not include a joint agency organized pursuant to Sections
106 77-5-701 et seq., as now or hereafter amended, nor a member
107 municipality thereof.

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

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

119 (j) The term "lead-lag study" includes an analysis to
120 determine the amount of capital which investors in a public
121 utility, the rates of which are subject to regulation under the
122 provisions of this chapter, must provide to meet the day-to-day
123 operating costs of the public utility prior to the time such costs
124 are recovered from customers, and the measurement of:

125 (i) The lag in collecting from the customer the
126 cost of providing service; and



127 (ii) The lag in paying the cost of providing
128 service by the public utility.

129 **SECTION 2.** This act shall take effect and be in force from
130 and after July 1, 2002.

