SENATE BILL NO. 2797
(As Sent to Governor)

AN ACT TO PROMOTE THE CONSERVATION OF WATER RESOURCES THROUGH
THE AUTHORIZATION OF SUBMETERING OF WATER AND WASTEWATER SERVICES
BEING PROVIDED TO RESIDENTS OF MULTI-UNIT DWELLINGS; TO AMEND
SECTION 77-3-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) The Legislature finds that the conservation
of water resources is vitally important to the future of our
state, and that in order to enhance the conservation of water
resources, it is necessary to grant specific authority for the
provision of submetering of water and wastewater disposal service.

(2) As used in this section, the following words and phrases
have the meanings ascribed in this subsection, unless the context
clearly indicates otherwise:

(a) "Apartment house" means one or more buildings
containing four (4) or more dwelling units that are occupied
primarily for nontransient use, including a residential
condominium whether rented or owner occupied, and if a dwelling
unit is rented, having rental paid at intervals of one (1) month
or longer.

(b) "Dwelling unit" means one or more rooms in an
apartment house or condominium, suitable for occupancy as a
residence, and containing kitchen and bathroom facilities, or a
manufactured home in a manufactured home community.

(c) "Customer" means the individual, firm or
corporation in whose name a master meter has been connected by a
public utility.
(d) "Owner" means the legal titleholder of an apartment house or manufactured home community and any individual, firm or corporation that purports to be the landlord of tenants in the apartment house or manufactured home community.

(e) "Tenant" means a person who is entitled to occupy a dwelling unit to the exclusion of others and who is obligated to pay for the occupancy under a written or oral rental agreement.

(f) "Manufactured home community" means a property on which spaces are rented for the occupancy of: (i) manufactured homes for nontransient residential use and for which rental is paid at intervals of one (1) month or longer; or (ii) recreational vehicles for nontransient residential use for a time period of three (3) months or longer.

(g) "Submetering" means the use of a metering device by a customer who receives water and wastewater service from a public utility, which metering device measures water supplied to a tenant for the purpose of the customer's charging the tenant of a dwelling unit separately for water and wastewater usage.

(3) (a) An apartment house owner, manufactured home community owner or condominium manager may provide for submetering of each dwelling unit or rental unit for the measurement of the quantity of water consumed by the occupants of the unit. If submetering is utilized, tenants may be charged separately for water and wastewater services on a pass through allocated basis for charges incurred by the customer. The charges for a tenant may not exceed the tenant's pro rata share of all water and wastewater services used by all of the tenants in that apartment house, manufactured home community or condominium.

(b) Any apartment house owner, manufactured home community owner or condominium manager utilizing submetering pursuant to this section shall disclose the submetering to each tenant and obtain from the tenant an acknowledgment of the submetering in a written document.
(c) Submeters installed pursuant to this section must meet the American Water Works Association standards for accuracy.

(d) In rendering charges to tenants pursuant to this section, the customer shall provide:
   (i) Beginning and ending meter reads;
   (ii) A statement that the bill is not from the public utility; and
   (iii) A telephone number for tenant inquiries on the bill.

(e) Water and wastewater services utilized by the tenant may not be disconnected for nonpayment of submetered bills.

SECTION 2. 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, the 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, 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 other than the submetering authorized under Section 1 of Senate Bill No. 2797, 2002 Regular Session.
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 Sections 77-5-701 et seq. * * *

(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 3. This act shall take effect and be in force from
and after July 1, 2002.