SENATE BILL NO. 3033

AN ACT TO AMEND SECTION 77-3-35, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE PUBLIC SERVICE COMMISSION TO INCLUDE THE COST OF FIRE PROTECTION IN THE RATE STRUCTURE FOR WATER AND SEWER UTILITIES UPON REQUEST BY THE UTILITY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 77-3-35, Mississippi Code of 1972, is amended as follows:

77-3-35. (1) Subject to the provisions of subsection (2) of this section, under such reasonable rules and regulations as the commission may prescribe, every public utility, the rates of which are subject to regulation under the provisions of this article, shall file with the commission, within such time and in such form as the commission may designate, schedules showing all rates and charges established by it and collected and enforced, or to be collected or enforced within the jurisdiction of the commission. The utility shall keep copies of such schedules open to public inspection under such reasonable rules and regulations as the commission may prescribe.

No such public utility shall directly or indirectly, by any device whatsoever, or in anywise, charge, demand, collect or receive from any person or corporation for any service rendered or to be rendered by such public utility a greater or less compensation than that prescribed in the schedules of such public utility applicable thereto then filed in the manner provided in this section, and no person or corporation shall receive or accept any service from any such public utility for a compensation greater or less than prescribed in such schedules.
Utilities of the same type as herein covered, engaged in rendering interstate service to and from points and places in the state, shall file with the commission tariffs of rates and charges of such and rates and charges affecting service to or from points and places in the state. Also, utilities selling commodities or rendering any service to cooperatives, municipalities or other nonprofit organizations, shall, at the order of the commission, file schedules of such rates and charges for information purposes only.

The commission may provide, by rules and regulations to be adopted by it, the following:

(a) That utilities may contract with a manufacturer that is not a utility for furnishing the services or commodities described in Section 77-3-3(d)(i), (ii) and (iii) for use in manufacturing;

(b) That utilities described in Section 77-3-3(d)(i) also may contract with a customer that has a minimum yearly electric consumption of two thousand five hundred (2,500) megawatt hours per year or greater for furnishing the services or commodities described in Section 77-3-3(d)(i); and

(c) That utilities described in Section 77-3-3(d)(ii) also may contract with a customer that has a minimum yearly consumption of eight million five hundred thousand (8,500,000) cubic feet of gas per year or greater for furnishing the services or commodities described in Section 77-3-3(d)(ii).

These contracts may be entered into without reference to the rates or other conditions which may be established or fixed pursuant to other provisions of this article. Such regulations shall provide that before becoming effective any such contract shall be approved by the commission.

(2) (a) The Legislature recognizes that the maintenance of universal telephone service in Mississippi is a continuing goal of the commission and that the public interest requires that the
commission be authorized and encouraged to formulate and adopt rules and policies that will permit the commission, in the exercise of its expertise, to regulate and control the provision of telecommunications services to the public in a changing environment where competition and innovation are becoming more commonplace, giving due regard to the interests of consumers, the public, the providers of telecommunications services and the continued availability of good telecommunications service. The commission is authorized to issue more than one competing certificate of public convenience and necessity to provide local exchange telephone service in the same geographical area; provided, that the issuing of any such additional certificates shall not otherwise affect any certificate of public convenience and necessity heretofore issued to any provider of such services.

The commission shall adopt all rules and regulations necessary for implementing this subsection (2)(a).

The commission retains the authority to issue orders to implement its rules, regulations and the provisions of this chapter, including the authority to grant and modify, impose conditions upon, or revoke a certificate.

(b) Notwithstanding any provisions of this chapter or any other statute, the commission may, on its own motion or at the request of any interested party, enter an order, after notice and opportunity for hearing, determining and directing that, in the provision of a service or facility by a utility of the type defined in Section 77-3-3(d)(iii), competition or other market forces adequately protect the public interest, or that a service or facility offered by the utility is discretionary, and that the public interest requires that the utility's rates and charges for such service or facility shall not thereafter be subject to regulation by the commission.

(c) In making its determination whether the rates and charges for a service or facility shall not be subject to
regulation by the commission, the commission may consider individually or collectively:

(i) Whether the exercise of commission jurisdiction produces tangible benefits to the utility's customers that exceed those available by reliance on market forces or other factors;

(ii) Whether technological changes, competitive forces, discretionary nature of the service or facility, or regulation by other state and federal regulatory bodies render the exercise of jurisdiction by the Mississippi commission unnecessary or wasteful;

(iii) Whether the exercise of commission jurisdiction inhibits a regulated utility from competing with unregulated providers of functionally similar telecommunications services or equipment;

(iv) Whether the existence of competition tends to prevent abuses, unjust discrimination and extortion in the charges of telecommunications utilities for the service or facility in question;

(v) The availability of the service or facility from other persons and corporations; or

(vi) Any other factors that the commission considers relevant to the public interest.

In making the determination as above set forth, the commission may specify the period of time during which the utility's rates and charges for the service or facility shall not thereafter be subject to regulation. Likewise, after notice and opportunity for hearing, the commission may revoke a determination and direction made under this section, when the commission finds that commission regulation of the utility's rates and charges for the service or facility in question is necessary to protect the public interest.
(3) (a) Notwithstanding any other provisions of this article or any other statute to the contrary, the commission is authorized to consider and adopt alternative methods of regulation proposed by a utility of the type defined in Section 77-3-3(d)(i), (ii) or (iii) to establish rates for the services furnished by such utility that are fair, just and reasonable to the public and that provide fair, just and reasonable compensation to the utility for such services.

(b) For purposes of this subsection, the phrase "alternative methods of regulation" means the regulation of utility rates and charges by methods other than the rate base or rate of return method of regulation set forth in other provisions of this article.

(4) With regard to utilities described in Section 77-3-3(d)(iv), the commission is authorized to include the cost of fire protection in the rate structure when requested by the utility.

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