

By: Representative Ellis (By Request)

To: Public Utilities

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1040

1 AN ACT TO AMEND SECTION 77-3-23, MISSISSIPPI CODE OF 1972, TO
2 MAKE CLEAR THAT THE MISSISSIPPI NATIVE LOAD CUSTOMERS HAVE FIRST
3 PRIORITY TO THE USE AND/OR BENEFIT OF FACILITIES IN A PUBLIC
4 UTILITY'S RATE BASE; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 77-3-23, Mississippi Code of 1972, is
7 amended as follows:

8 77-3-23. It shall be lawful, under the conditions specified
9 below, for public utilities to sell, assign, lease, transfer or
10 otherwise dispose, including, without limitation, any change in
11 control of (a) certificates of public convenience and necessity
12 issued to them under the provisions of this article, or (b) any
13 substantial part of its property necessary or useful in the
14 performance of its duties to the public, including corporate stock
15 that is not publicly traded.

16 Whenever a purchase, lease, assignment or transfer is
17 proposed, the utility or utilities or the person seeking authority
18 therefor shall present an application to the commission in such
19 form as may be prescribed by the commission. Thereupon the
20 commission shall notify the applicant or applicants and other
21 parties known to have a substantial interest in the proceedings of
22 the time and place for a public hearing at least twenty (20) days
23 prior thereto, unless the commission shall find that public
24 convenience or necessity requires that such hearings be held at an
25 earlier date. Notice of all such hearings shall be given the
26 persons interested therein by mailing such notice to each public
27 utility which may be affected by any order resulting therefrom and
28 by publication in a newspaper having general circulation in the



29 county or counties wherein the facilities or areas that are the
30 subject of the application are located. If, after such hearing,
31 the commission finds that the transaction proposed is in good
32 faith, that the proposed assignee, lessee, purchaser or
33 transferee, is fit and able properly to perform the public utility
34 services authorized by such certificate and to comply with the
35 lawful rules, regulations and requirements of the commission, and
36 that the transaction is otherwise consistent with the public
37 interest, it may enter an order approving and authorizing such
38 sale, lease, assignment or transfer upon such terms and conditions
39 as it shall find to be just and reasonable and with such
40 modifications as it may prescribe. Whenever such a transaction
41 involves facilities that are included in the rate base of a public
42 utility, the commission shall include, as a prerequisite to its
43 finding that the transaction is consistent with the public
44 interest, a finding that, upon the consummation of the transaction
45 proposed: (a) (i) the native load customers of the public utility
46 will continue to have a first priority to the use and/or benefit
47 of such facilities, or (ii) any loss of such first priority by
48 native load customers to the use and/or benefit of such facilities
49 is not contrary to the public interest; and (b) any native load
50 customers served by any transmission facilities shall be served on
51 the same basis as before the transaction.

52 Notwithstanding any provision of this section to the
53 contrary, the application may be granted as applied for without a
54 hearing in uncontested cases; however, the commission may hear any
55 uncontested case if it determines that the public interest will be
56 served thereby.

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

