

By: Representative Ellis (By Request)

To: Public Utilities

HOUSE BILL NO. 1040

1 AN ACT TO AMEND SECTION 77-3-23, MISSISSIPPI CODE OF 1972, TO  
2 MAKE CLEAR THAT THE MISSISSIPPI RETAIL RATEPAYERS 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 unlawful, under the conditions  
9 specified below, for public utilities to sell, assign, lease,  
10 transfer or otherwise dispose, including, without limitation, any  
11 change in control of (a) certificates of public convenience and  
12 necessity issued to them under the provisions of this article, or  
13 (b) any substantial part of its property necessary or useful in  
14 the performance of its duties to the public, including corporate  
15 stock 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, as a prerequisite to its finding  
43 that the transaction is consistent with the public interest,  
44 include a specific finding that, upon the consummation of the  
45 transaction proposed: 1) the retail ratepayers of the public  
46 utility will continue to have a first priority to the use and/or  
47 benefit of such facilities; or 2) any loss of such first priority  
48 by retail ratepayers to the use and/or benefit of such facilities  
49 is not contrary to the public interest.

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

55 SECTION 2. This act shall take effect and be in force from  
56 and after passage.

