

By: Representative Malone

To: Public Utilities

HOUSE BILL NO. 405

1 AN ACT TO AMEND SECTION 77-3-35, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT PUBLIC UTILITIES THAT ARE SUBJECT TO THE JURISDICTION
3 OF THE MISSISSIPPI PUBLIC SERVICE COMMISSION AND PROVIDE
4 ELECTRICITY SHALL NOT ASSESS RECONNECTION FEES OR CHARGES DUE TO
5 NONPAYMENT OF ELECTRIC SERVICES THAT EXCEED ONE PERCENT OF THE
6 DELINQUENT AMOUNT; TO AMEND SECTION 77-5-33, MISSISSIPPI CODE OF
7 1972, TO PROVIDE THAT THE MISSISSIPPI RURAL ELECTRIFICATION
8 AUTHORITY SHALL NOT ASSESS RECONNECTION FEES OR CHARGES DUE TO
9 NONPAYMENT OF ELECTRIC SERVICES THAT EXCEED ONE PERCENT OF THE
10 DELINQUENT AMOUNT; TO AMEND SECTION 77-5-155, MISSISSIPPI CODE OF
11 1972, TO PROVIDE THAT POWER DISTRICTS SHALL NOT ASSESS
12 RECONNECTION FEES OR CHARGES DUE TO NONPAYMENT OF SERVICES THAT
13 EXCEED ONE PERCENT OF THE DELINQUENT AMOUNT; TO AMEND SECTION
14 77-5-235, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CORPORATIONS
15 OF THE ELECTRIC POWER ASSOCIATION SHALL NOT ASSESS RECONNECTION
16 FEES OR CHARGES DUE TO NONPAYMENT OF ELECTRIC SERVICES THAT EXCEED
17 ONE PERCENT OF THE DELINQUENT AMOUNT; TO AMEND SECTION 77-5-743,
18 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MUNICIPALITIES SHALL NOT
19 ASSESS RECONNECTION FEES OR CHARGES DUE TO NONPAYMENT OF ELECTRIC
20 SERVICES THAT EXCEED ONE PERCENT OF THE DELINQUENT AMOUNT; TO
21 AMEND SECTION 77-5-745, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
22 JOINT AGENCIES SHALL NOT ASSESS RECONNECTION FEES OR CHARGES DUE
23 TO NONPAYMENT OF ELECTRIC SERVICES THAT EXCEED ONE PERCENT OF THE
24 DELINQUENT AMOUNT; TO AMEND SECTION 21-27-29, MISSISSIPPI CODE OF
25 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

29 77-3-35. (1) Subject to the provisions of subsection (2) of
30 this section, under such reasonable rules and regulations as the
31 commission may prescribe, every public utility, the rates of which
32 are subject to regulation under the provisions of this article,
33 shall file with the commission, within such time and in such form
34 as the commission may designate, schedules showing all rates and
35 charges established by it and collected and enforced, or to be
36 collected or enforced within the jurisdiction of the commission.
37 The utility shall keep copies of such schedules open to public

38 inspection under such reasonable rules and regulations as the
39 commission may prescribe.

40 No such public utility shall directly or indirectly, by any
41 device whatsoever, or in anywise, charge, demand, collect or
42 receive from any person or corporation for any service rendered or
43 to be rendered by such public utility a greater or less
44 compensation than that prescribed in the schedules of such public
45 utility applicable thereto then filed in the manner provided in
46 this section, and no person or corporation shall receive or accept
47 any service from any such public utility for a compensation
48 greater or less than prescribed in such schedules.

49 Utilities of the same type as herein covered, engaged in
50 rendering interstate service to and from points and places in the
51 state, shall file with the commission tariffs of rates and charges
52 of such and rates and charges affecting service to or from points
53 and places in the state. Also, utilities selling commodities or
54 rendering any service to cooperatives, municipalities or other
55 nonprofit organizations, shall, at the order of the commission,
56 file schedules of such rates and charges for information purposes
57 only.

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

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

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

69 (c) That utilities described in Section 77-3-3(d)(ii)
70 also may contract with a customer that has a minimum yearly

71 consumption of eight million five hundred thousand (8,500,000)
72 cubic feet of gas per year or greater for furnishing the services
73 or commodities described in Section 77-3-3(d)(ii).

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

79 (2) (a) The Legislature recognizes that the maintenance of
80 universal telephone service in Mississippi is a continuing goal of
81 the commission and that the public interest requires that the
82 commission be authorized and encouraged to formulate and adopt
83 rules and policies that will permit the commission, in the
84 exercise of its expertise, to regulate and control the provision
85 of telecommunications services to the public in a changing
86 environment where competition and innovation are becoming more
87 commonplace, giving due regard to the interests of consumers, the
88 public, the providers of telecommunications services and the
89 continued availability of good telecommunications service. The
90 commission is authorized to issue more than one (1) competing
91 certificate of public convenience and necessity to provide local
92 exchange telephone service in the same geographical area;
93 provided, that the issuing of any such additional certificates
94 shall not otherwise affect any certificate of public convenience
95 and necessity heretofore issued to any provider of such services.

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

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

102 (b) Notwithstanding any provisions of this chapter or
103 any other statute, the commission may, on its own motion or at the

104 request of any interested party, enter an order, after notice and
105 opportunity for hearing, determining and directing that, in the
106 provision of a service or facility by a utility of the type
107 defined in Section 77-3-3(d)(iii), competition or other market
108 forces adequately protect the public interest, or that a service
109 or facility offered by the utility is discretionary, and that the
110 public interest requires that the utility's rates and charges for
111 such service or facility shall not thereafter be subject to
112 regulation by the commission.

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

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

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

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

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

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

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

138 In making the determination as above set forth, the
139 commission may specify the period of time during which the
140 utility's rates and charges for the service or facility shall not
141 thereafter be subject to regulation. Likewise, after notice and
142 opportunity for hearing, the commission may revoke a determination
143 and direction made under this section, when the commission finds
144 that commission regulation of the utility's rates and charges for
145 the service or facility in question is necessary to protect the
146 public interest.

147 (3) (a) Notwithstanding any other provisions of this
148 article or any other statute to the contrary, the commission is
149 authorized to consider and adopt alternative methods of regulation
150 proposed by a utility of the type defined in Section 77-3-3(d)(i),
151 (ii) or (iii) to establish rates for the services furnished by
152 such utility that are fair, just and reasonable to the public and
153 that provide fair, just and reasonable compensation to the utility
154 for such services. No public utility that provides electricity,
155 as described in Section 77-3-3(d)(i), shall assess reconnection
156 fees or charges in excess of one percent (1%) of the delinquent
157 amount due to the nonpayment of electric service to any customer.

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

163 **SECTION 2.** Section 77-5-155, Mississippi Code of 1972, is
164 amended as follows:

165 77-5-155. Any district created pursuant to this article
166 shall have the power:

167 (a) To sue and be sued.

168 (b) To have a seal.

169 (c) To acquire by purchase, gift, devise, lease or
170 exercise of the power of eminent domain or other mode of
171 acquisition and to hold and dispose of real and personal property
172 of every kind within or without the district, subject to mortgages
173 or any other liens.

174 (d) To make and enter into contracts, conveyances,
175 mortgages, deeds of trust, bonds or leases.

176 (e) To incur debts, to borrow money, to issue
177 negotiable bonds and other evidences of indebtedness and to
178 provide for the rights of holders thereof.

179 (f) To fix, maintain and collect rates and charges for
180 any service; however, if a customer is disconnected from electric
181 service due to nonpayment for such service, no reconnection fees
182 or charges shall be assessed to a customer in excess of one
183 percent (1%) of the delinquent amount.

184 (g) To pledge all or any part of its revenues.

185 (h) To make such covenants in connection with the
186 issuance of bonds, or to secure the payment of bonds, that a
187 private business corporation can make under the general laws of
188 the state, notwithstanding that such covenants may operate as
189 limitations on the exercise of any power granted by this article.

190 (i) To use any right-of-way, easement or other similar
191 property right necessary or convenient in connection with the
192 acquisition, improvement, operation or maintenance of a utility,
193 held by the state or any political subdivision thereof, provided
194 that the governing body of such political subdivision shall
195 consent to such use.

196 **SECTION 3.** Section 77-5-33, Mississippi Code of 1972, is
197 amended as follows:

198 77-5-33. The authority shall not be operated for gain or
199 profit or primarily as a source of revenue to the state. The
200 authority shall, however, prescribe and collect reasonable rates,
201 fees or charges for the services, facilities and commodities made

202 available by it, and shall revise such rates, fees or charges from
203 time to time whenever necessary so that the authority shall be and
204 always remain self-supporting, and shall not require
205 appropriations by the state to enable it to carry out its purpose.
206 However, the authority shall not assess reconnection fees or
207 charges in excess of one percent (1%) of the delinquent amount for
208 any customer who is disconnected from electric service due to the
209 nonpayment of such service that is provided by the authority. The
210 rates, fees, or charges prescribed shall be such as will produce
211 revenue at least sufficient (a) to pay when due all bonds and
212 interest thereon, for the payment of which such revenue is or
213 shall have been pledged, charged or otherwise incumbered,
214 including reserves therefor, and (b) to provide for all expenses
215 of operation, maintenance or improvement of the system or systems
216 acquired by the authority, including reserves therefor. Any
217 surplus thereafter remaining shall be devoted solely to the
218 reduction of rates.

219 **SECTION 4.** Section 77-5-235, Mississippi Code of 1972, is
220 amended as follows:

221 77-5-235. A corporation formed under the provisions of this
222 article shall have power to charge reasonable fees, rents, tolls,
223 prices and other charges for service rendered which shall be
224 sufficient at all times to pay all operating and maintenance
225 expenses necessary or desirable for the prudent conduct and
226 operation of its business and to pay the principal of and interest
227 on such obligations as the corporation may have issued and/or
228 assumed in the performance of the purpose for which it was formed.
229 However, a corporation shall not assess reconnection fees or
230 charges in excess of one percent (1%) of the delinquent amount to
231 any customer who is disconnected from electric service due to the
232 nonpayment of service that is provided by the corporation. The
233 revenues and receipts of a corporation shall first be devoted to
234 such operating and maintenance expenses and to the payment of such

235 principal and interest and thereafter to such reserves for
236 improvement, new construction, depreciation and contingencies as
237 the board may from time to time prescribe. Revenues and receipts
238 not needed for these purposes shall be returned to the members, by
239 the reimbursement of membership fees, or by way of general rate
240 reductions, as the board may decide.

241 **SECTION 5.** Section 77-5-743, Mississippi Code of 1972, is
242 amended as follows:

243 77-5-743. A municipality is hereby authorized to fix, charge
244 and collect rents, rates, fees and charges for electric power and
245 energy and other services, facilities and commodities sold,
246 furnished or supplied through the facilities of its electric
247 system or its interest in any joint project. However, a
248 municipality shall not assess reconnection fees or charges to any
249 customer in excess of one percent (1%) of the delinquent amount to
250 any customer who is disconnected from electric service due to the
251 nonpayment of such service that is provided by the municipality.

252 For so long as any bonds of a municipality are outstanding and
253 unpaid, the rents, fees and charges shall be so fixed as to
254 provide revenues sufficient to pay all costs of and charges and
255 expenses in connection with the proper operation and maintenance
256 of its electric system, and its interest in any joint project, and
257 all necessary repairs, replacements or renewals thereof, to pay
258 when due the principal of, premium, if any, and interest on all
259 bonds and other evidences of indebtedness payable from said
260 revenues, to create and maintain reserves as may be required by
261 any resolution authorizing and securing bonds, to pay when due the
262 principal of, premium, if any, and interest on all bonds
263 heretofore or hereafter issued to finance additions, improvements
264 and betterments to its electric system, and to pay any and all
265 amounts which the municipality may be obligated to pay from said
266 revenues by law or contract. Nothing herein contained shall be
267 construed to prohibit any municipality from expending any revenues

268 in excess of that required herein in any manner otherwise
269 permitted by law.

270 **SECTION 6.** Section 77-5-745, Mississippi Code of 1972, is
271 amended as follows:

272 77-5-745. A joint agency is hereby authorized to fix, charge
273 and collect rents, rates, fees and charges for electric power and
274 energy and other services, facilities and commodities sold,
275 furnished or supplied through the facilities of its projects.
276 However, a joint agency shall not assess reconnection fees or
277 charges to any customer in excess of one percent (1%) of the
278 delinquent amount to any customer who is disconnected from
279 electric service due to the nonpayment of such service that is
280 provided by the joint agency. For so long as any bonds of a joint
281 agency are outstanding and unpaid, the rents, rates, fees and
282 charges shall be so fixed as to provide revenues sufficient to pay
283 all costs of and charges and expenses in connection with the
284 proper operation and maintenance of its projects, and all
285 necessary repairs, replacements or renewals thereof, to pay when
286 due the principal of, premium, if any, and interest on all bonds
287 and other evidences of indebtedness payable from said revenues, to
288 create and maintain reserves as may be required by any resolution
289 authorizing and securing bonds, and to pay any and all amounts
290 which the joint agency may be obligated to pay from said revenues
291 by law or contract.

292 **SECTION 7.** Section 21-27-29, Mississippi Code of 1972, is
293 amended as follows:

294 21-27-29. Except for reconnection fees or charges for
295 electric service as provided in Sections 77-5-743 and 77-5-745,
296 rates charged for services furnished by any system or combined
297 system purchased, constructed, improved, enlarged, extended or
298 repaired under the provisions of Sections 21-27-11 to 21-27-69
299 shall not be subject to supervision or regulation by any state
300 bureau, board, commission, or other like instrumentality or agency

301 thereof. It shall not be necessary for any municipality operating
302 under the provisions of said sections to obtain any franchise or
303 other permit from any state bureau, board, commission or other
304 instrumentality thereof, in order to construct, improve, enlarge,
305 extend or repair any system or combined system. However, billing
306 and service disputes between the system and its customers shall be
307 subject to review and arbitration by the Public Service Commission
308 as provided under Section 77-3-6.

309 **SECTION 8.** This act shall take effect and be in force from
310 and after July 1, 2006.