

By: Senator(s) Dawkins

To: Public Utilities

SENATE BILL NO. 2624

1 AN ACT TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE CABLE TELEVISION SYSTEMS IN THE DEFINITION OF PUBLIC
3 UTILITIES AS USED TO DESCRIBE THE JURISDICTION OF THE PUBLIC
4 SERVICE COMMISSION; AND FOR RELATED PURPOSES.

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

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

8 77-3-3. As used in this chapter:

9 (a) The term "corporation" includes a private or public
10 corporation, a municipality, an association, a joint-stock
11 association or a business trust.

12 (b) The term "person" includes a natural person, a
13 partnership of two (2) or more persons having a joint or common
14 interest, a cooperative, nonprofit, limited dividend or mutual
15 association, a corporation, or any other legal entity.

16 (c) The term "municipality" includes any incorporated
17 city, town or village.

18 (d) The term "public utility" includes persons and
19 corporations, or their lessees, trustees and receivers now or
20 hereafter owning or operating in this state equipment or
21 facilities for:

22 (i) The generation, manufacture, transmission or
23 distribution of electricity to or for the public for compensation;

24 (ii) The transmission, sale, sale for resale, or
25 distribution of natural, artificial, or mixed natural and
26 artificial gas to the public for compensation by means of
27 transportation, transmission, or distribution facilities and
28 equipment located within this state; however, the term shall not

29 include the production and gathering of natural gas, the sale of
30 natural gas in or within the vicinity of the field where produced,
31 or the distribution or sale of liquefied petroleum gas or the sale
32 to the ultimate consumer of natural gas for use as a motor vehicle
33 fuel;

34 (iii) The transmission, conveyance or reception of
35 any message over a cable system, wire, * * * by radio, or
36 otherwise, of writing, signs, signals, pictures and sounds of all
37 kinds by or for the public, including the transmission to multiple
38 subscribers of video programming or other programming services and
39 subscriber interaction, if any, which is required for the
40 selection of video programming or other programming services,
41 where such service is offered to the public for compensation, and
42 the furnishing, or the furnishing and maintenance, of equipment or
43 facilities to the public, for compensation, for use as a private
44 communications system or part thereof; however, * * * nothing in
45 this chapter shall be construed to apply to television stations,
46 radio stations, community television antenna services, broadband
47 services or cable systems that serve only to retransmit the
48 television signals of one or more television broadcast stations or
49 serve only subscribers in one or more multiple unit dwellings
50 under common ownership, control or management without using any
51 public right-of-way; and

52 (iv) The transmission, distribution, sale or
53 resale of water to the public for compensation, or the collection,
54 transmission, treatment or disposal of sewage, or otherwise
55 operating a sewage disposal service, to or for the public for
56 compensation.

57 The term "public utility" shall not include any person not
58 otherwise a public utility, who furnishes the services or
59 commodity described in this paragraph only to himself, his
60 employees or tenants as an incident of such employee service or
61 tenancy, if such services are not sold or resold to such tenants

62 or employees on a metered or consumption basis other than the
63 submetering authorized under Section 77-3-97.

64 A public utility's business other than of the character
65 defined in subparagraphs (i) through (iv) of this paragraph is not
66 subject to the provisions of this chapter.

67 (e) The term "rate" means and includes every
68 compensation, charge, fare, toll, rental and classification, or
69 the formula or method by which such may be determined, or any of
70 them, demanded, observed, charged or collected by any public
71 utility for any service, product or commodity described in this
72 section, offered by it to the public, and any rules, regulations,
73 practices or contracts relating to any such compensation, charge,
74 fare, toll, rental or classification; however, the term "rate"
75 shall not include charges for electrical current furnished,
76 delivered or sold by one public utility to another for resale.

77 (f) The word "commission" shall refer to the Public
78 Service Commission of the State of Mississippi, as now existing,
79 unless otherwise indicated.

80 (g) The term "affiliated interest" or "affiliate"
81 includes:

82 (i) Any person or corporation owning or holding,
83 directly or indirectly, twenty-five percent (25%) or more of the
84 voting securities of a public utility;

85 (ii) Any person or corporation in any chain of
86 successive ownership of twenty-five percent (25%) or more of the
87 voting securities of a public utility;

88 (iii) Any corporation of which fifteen percent
89 (15%) or more of the voting securities is owned or controlled,
90 directly or indirectly, by a public utility;

91 (iv) Any corporation twenty-five percent (25%) or
92 more of the voting securities of which is owned or controlled,
93 directly or indirectly, by any person or corporation that owns or
94 controls, directly or indirectly, twenty-five percent (25%) or

95 more of the voting securities of any public utility or by any
96 person or corporation in any chain of successive ownership of
97 twenty-five percent (25%) of such securities;

98 (v) Any person who is an officer or director of a
99 public utility or of any corporation in any chain of successive
100 ownership of fifteen percent (15%) or more of voting securities of
101 a public utility; or

102 (vi) Any person or corporation that the
103 commission, after notice and hearing, determines actually
104 exercises any substantial influence or control over the policies
105 and actions of a public utility, or over which a public utility
106 exercises such control, or that is under a common control with a
107 public utility, such control being the possession, directly or
108 indirectly, of the power to direct or cause the discretion of the
109 management and policies of another, whether such power is
110 established through ownership of voting securities or by any other
111 direct or indirect means.

112 However, the term "affiliated interest" or "affiliate" shall
113 not include a joint agency organized pursuant to Section 77-5-701
114 et seq. nor a member municipality thereof.

115 (h) The term "facilities" includes all the plant and
116 equipment of a public utility, used or useful in furnishing public
117 utility service, including all real and personal property without
118 limitation, and any and all means and instrumentalities in any
119 manner owned, operated, leased, licensed, used, controlled,
120 furnished or supplied for, by or in connection with its public
121 utility business.

122 (i) The term "cost of service" includes operating
123 expenses, taxes, depreciation, net revenue and operating revenue
124 requirement at a claimed rate of return from public utility
125 operations.

126 (j) The term "lead-lag study" includes an analysis to
127 determine the amount of capital which investors in a public

128 utility, the rates of which are subject to regulation under the
129 provisions of this chapter, must provide to meet the day-to-day
130 operating costs of the public utility prior to the time such costs
131 are recovered from customers, and the measurement of (i) the lag
132 in collecting from the customer the cost of providing service, and
133 (ii) the lag in paying the cost of providing service by the public
134 utility.

135 (k) The term "broadband services" means any service
136 that consists of or includes a high-speed access capability to
137 transmit at a rate that is not less than two hundred (200)
138 kilobits per second either in the upstream or downstream direction
139 and either:

- 140 (i) Is used to provide access to the Internet, or
- 141 (ii) Provides computer processing, information
142 storage, information content or protocol conversion, including any
143 service applications or information service provided over such
144 high-speed access service.

145 Nothing contained in this paragraph shall apply to retail
146 services that are tariffed by the commission.

147 **SECTION 2.** This act shall take effect and be in force from
148 and after July 1, 2006.