

By: Representative Zuber

To: Public Utilities

HOUSE BILL NO. 1108

1 AN ACT TO ESTABLISH THE OFFICE OF RESIDENTIAL AND SMALL
 2 BUSINESS ADVOCATE TO REPRESENT THE INTERESTS OF RESIDENTIAL AND
 3 SMALL BUSINESS CONSUMERS IN ANY MATTER PROPERLY BEFORE THE
 4 MISSISSIPPI PUBLIC SERVICE COMMISSION; TO PROVIDE ACCESS TO ANY
 5 FILINGS AND OTHER DOCUMENTATION AVAILABLE TO THE PUBLIC UTILITIES
 6 STAFF; TO PROVIDE DISCRETION IN DETERMINING THE INTERESTS WHICH
 7 WILL BE ADVOCATED IN ANY PARTICULAR PROCEEDING; TO PROVIDE FOR
 8 ANNUAL REPORTS OF THE ADVOCATE; TO BRING FORWARD SECTIONS 77-2-1,
 9 77-2-3, 77-2-5, 77-2-7, 77-2-9, 77-2-11, 77-2-13, 77-2-15,
 10 77-2-17, 77-2-19 AND 77-3-2, MISSISSIPPI CODE OF 1972, FOR
 11 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1. Establishment of Office of Residential and Small**

14 **Business Advocate.** (1) There is hereby established an Office of
 15 Residential and Small Business Advocate to represent the interests
 16 of residential and small business consumers in any matter properly
 17 before the Mississippi Public Service Commission. The office may
 18 represent the interests of these consumers as a party or may
 19 otherwise participate for the purpose of representing their
 20 interests.

21 (2) The office established in subsection (1) of this section
 22 shall be independent of the Public Service Commission and the



23 Public Utilities Staff, but it shall be under the Public Utilities
24 Staff for administrative purposes only, including office space and
25 equipment, accounting and other office services, and access to
26 libraries and other relevant resources that are available to the
27 Public Utilities Staff.

28 **SECTION 2. Access to Information.** (1) The Residential and
29 Small Business Advocate may request access to any filings and
30 other documentation available to the Public Utilities Staff, and
31 such access shall be granted.

32 (2) In dealing with any proposed action which may
33 substantially affect the interest of consumers including, but not
34 limited to, a proposed change of rates and the adoption of rules,
35 regulations, guidelines, orders, standards or final policy
36 decisions, the Public Service Commission shall notify the
37 Residential and Small Business Advocate when notice of the
38 proposed action is given to the public or at a time fixed by
39 agreement between the Residential and Small Business Advocate and
40 the commission in a manner to assure the Residential and Small
41 Business Advocate reasonable notice and adequate time to determine
42 whether to intervene in such matter.

43 (3) From and after the beginning of construction of an
44 electric generating unit, the Residential and Small Business
45 Advocate, or the advocate's designee, shall have reasonable access
46 to the construction site and to any oral or documentary evidence
47 relevant to determining the necessity and propriety of any



48 construction cost. As used in this section, the term
49 "construction" includes any work performed on an electric
50 generating unit which is expected to require the affected public
51 utility to incur an aggregate of at least One Hundred Million
52 Dollars (\$100,000,000.00) of expenses which, in accordance with
53 generally accepted accounting principles, are capital expenses and
54 not operating or maintenance expenses.

55 (4) The Office of Residential and Small Business Advocate
56 shall follow the same confidentiality and nondisclosure
57 requirements as are required of the Public Utilities Staff for
58 confidential, proprietary or trade secret information provided to
59 the Residential and Small Business Advocate, or the advocate's
60 designee, under this section.

61 **SECTION 3. Discretion of the Advocate.** (1) The Residential
62 and Small Business Advocate may exercise discretion in determining
63 the interests of residential and small business consumers which
64 will be advocated in any particular proceeding and in determining
65 whether or not to participate in or initiate any particular
66 proceeding and, in so determining, shall consider the public
67 interest, the resources available and the substantiality of the
68 effect of the proceeding on the interest of residential and small
69 business consumers. The Residential and Small Business Advocate
70 may refrain from intervening when in the judgment of the
71 Residential and Small Business Advocate such is not necessary to
72 represent adequately the interest of consumers.



73 (2) At such time as the Residential and Small Business
74 Advocate determines, in accordance with applicable time
75 limitations, to initiate, intervene, or otherwise participate in
76 any commission, agency, or court proceeding, he shall issue
77 publicly a written statement, a copy of which he shall file in the
78 proceeding in addition to any required entry of his appearance,
79 stating concisely the specific interest of residential and small
80 business consumers to be protected.

81 **SECTION 4. Interpretation.** (1) Nothing contained herein
82 shall in any way limit the right of any consumer to bring a
83 proceeding before either the commission or a court.

84 (2) Nothing contained herein shall be construed to impair
85 the statutory authority or responsibility of the commission to
86 regulate public utilities in the public interest.

87 **SECTION 5. Reports of the Advocate.** The Residential and
88 Small Business Advocate shall annually transmit to the Governor,
89 the President of the Senate and the Speaker of the House, and
90 shall make available to the public an annual report on the conduct
91 of the Office of Residential and Small Business Advocate.

92 **SECTION 6.** Section 77-2-1, Mississippi Code of 1972, is
93 brought forward as follows:

94 77-2-1. There is hereby established a Public Utilities
95 Staff, which shall be completely separate and independent from the
96 Public Service Commission and the Public Service Commission staff.
97 Such staff shall consist of the personnel positions of the



98 executive director, the economic and planning division, legal
99 division, engineering division and accounting division with a
100 State Personnel Board organizational code of twenty thousand
101 (20,000) or larger which were formerly authorized and appropriated
102 under the provisions of Section 77-3-8, Mississippi Code of 1972.
103 The executive director shall establish the organizational
104 structure of the staff, and shall have the authority to create
105 units as deemed appropriate to carry out the responsibilities of
106 the staff. The Public Utilities Staff shall represent the broad
107 interests of the State of Mississippi by balancing the respective
108 concerns of the residential, commercial or industrial ratepayers,
109 and the state and its agencies and departments, and the public
110 utilities. The staff shall consist of a sufficient number of
111 professional, administrative, technical, clerical and other
112 personnel as may be necessary for the staff to perform its duties
113 and responsibilities as hereinafter provided. All such personnel
114 shall be competitively appointed by the executive director and
115 shall be dismissed only for cause in accordance with the rules and
116 regulations of the State Personnel Board. All equipment,
117 supplies, records and any funds appropriated by the Legislature to
118 the Public Service Commission for and on behalf of the Public
119 Utilities Staff shall be transferred to such staff on September 1,
120 1990. The Public Utilities Staff shall be funded separately from
121 the Mississippi Public Service Commission. Any appropriated funds
122 to the Public Utilities Staff shall be maintained in an account



123 separate from any funds of the Public Service Commission and shall
124 never be commingled therewith.

125 Notwithstanding any provision of this chapter to the
126 contrary, the personnel positions of the data processing division
127 and the gas pipeline safety division of the Public Utilities Staff
128 shall be the Public Service Commission staff positions authorized
129 under Section 77-3-8, and shall be under the control and
130 supervision of the Public Service Commission from and after March
131 15, 1991. However, the Public Service Commission staff shall
132 continue to provide at no cost administrative support in the
133 nature of data processing and bookkeeping to the Public Utilities
134 Staff in order to avoid duplication of services.

135 **SECTION 7.** Section 77-2-3, Mississippi Code of 1972, is
136 brought forward as follows:

137 77-2-3. (1) The Public Utilities Staff created pursuant to
138 Section 77-2-1 and the Public Service Commission and commission
139 staff shall have and possess all of the rights and powers to
140 perform all of the duties vested by this chapter.

141 (2) The functions of the commission, with the aid and
142 assistance of its staff, shall be regulatory and quasi-judicial in
143 nature. It may make such investigations and determinations, hold
144 such hearings, prescribe such rules and issue such orders with
145 respect to the control and conduct of the businesses coming within
146 its jurisdiction. It may adjudicate all proceedings brought



147 before it in which the violation of any law or rule administered
148 by the commission is alleged.

149 (3) The primary functions of the public utilities staff
150 shall be investigative and advisory in nature.

151 **SECTION 8.** Section 77-2-5, Mississippi Code of 1972, is
152 brought forward as follows:

153 77-2-5. For purposes of this chapter, the terms defined in
154 this section shall have the meaning ascribed as follows:

155 (a) "Regulatory function" means all duties and
156 procedures concerning the execution and enforcement of the laws,
157 rules, orders, directives, duties and obligations imposed for the
158 control and government of the persons or businesses regulated,
159 together with investigative activities incident thereto and
160 procedures inherently administrative or executive in character.

161 (b) "Quasi-judicial function" means the promulgation of
162 all orders and directives of particular applicability governing
163 the conduct of the regulated persons or businesses, together with
164 procedures inherently judicial.

165 (c) "Commission" means the Mississippi Public Service
166 Commission.

167 (d) "Public utilities staff" means those persons
168 employed by the public utilities staff established in Section
169 77-2-1.



170 (e) "Public service commission staff" means those
171 persons employed by the Public Service Commission pursuant to
172 Section 77-3-8, Mississippi Code of 1972.

173 **SECTION 9.** Section 77-2-7, Mississippi Code of 1972, is
174 brought forward as follows:

175 77-2-7. (1) An Executive Director of the Public Utilities
176 Staff shall be appointed, on or before July 1, 1990, by the
177 Governor, from recommended candidates to be selected by the Public
178 Service Commission, with the advice and consent of the Senate, to
179 serve for a term of six (6) years. On or before May 15, 1990, the
180 Public Service Commission shall submit to the Governor a list of
181 not less than three (3) and no more than six (6) qualified
182 candidates for the position of executive director. The Governor
183 shall appoint the executive director from the list of qualified
184 candidates nominated. Within sixty (60) days prior to the
185 expiration of the term of the executive director, the Public
186 Service Commission shall submit the names of candidates to the
187 Governor in the manner provided herein. Whenever any vacancy
188 shall occur in the position of executive director the Public
189 Service Commission shall nominate and the Governor shall appoint
190 an executive director, as provided herein, to fill the unexpired
191 term. The executive director shall serve at the will and pleasure
192 of the Governor.

193 (2) The Executive Director of the Public Utilities Staff
194 shall hold at least a bachelors degree and shall have extensive



195 managerial experience with a thorough knowledge of public utility
196 economics and the principles of utility service and rate
197 construction. The Executive Director of the Public Utilities
198 Staff shall possess the ability to analyze quantitative and
199 qualitative data and to develop and adjust regulatory strategies
200 or policies to attain commission objectives. The salary of the
201 executive director shall be set by the Personnel Board and shall
202 be such that it is comparable to salaries of those holding similar
203 positions in other state and federal agencies and commensurate
204 with the duties and responsibilities imposed on this official
205 position which affects the broad interests of the State of
206 Mississippi. Nothing herein shall be construed to prevent
207 reappointment of the executive director for consecutive terms.

208 **SECTION 10.** Section 77-2-9, Mississippi Code of 1972, is
209 brought forward as follows:

210 77-2-9. (1) The executive director shall have general
211 charge of the operations and administration of the Public
212 Utilities Staff. It shall be the duty and responsibility of the
213 executive director to supervise and manage the offices and
214 personnel on the Public Utilities Staff and formulate written
215 policies and procedures for the effective and efficient operation
216 thereof. The executive director shall be responsible for hiring
217 persons on the staff who meet established qualifications for
218 comparable positions of duty and responsibility. The Public
219 Utilities Staff as formerly created in Section 77-3-8, Mississippi



220 Code of 1972, which consists of the Economic and Planning
221 Division, Legal Division, Engineering Division, Accounting
222 Division and Administrative Services Division, and has a State
223 Personnel Board organizational code of twenty thousand (20,000) or
224 larger, is abolished from and after August 31, 1990. All such
225 former employees shall be eligible to be rehired by the executive
226 director for positions on the Public Utilities Staff created
227 pursuant to Section 77-2-1. Such former employees shall not, by
228 virtue of abolishing such staff, lose any vacation or sick leave
229 benefits previously accrued and, if rehired, shall continue
230 vacation and sick leave as if they had not been terminated. For a
231 period of one (1) year after July 1, 1990, the personnel actions
232 of the Public Utilities Staff shall be exempt from State Personnel
233 Board procedures in order to give the Public Utilities Staff
234 flexibility in making an orderly, effective and timely transition
235 to the mandated reorganization.

236 (2) The following personnel and members of the Public
237 Utilities Staff shall be competitively appointed by the executive
238 director and shall have at least the knowledge, skills and
239 abilities set forth herein. These requirements shall not be
240 waived, and possession thereof shall be certified by the State
241 Personnel Board:

242 (a) A chief engineer who is a graduate licensed
243 engineer and who has a thorough knowledge of engineering
244 principles as applied to the design, construction, operation,



245 maintenance and expansion of utility facilities and rate structure
246 determination. The chief engineer shall possess a thorough
247 knowledge of techniques and practices of public utility service
248 and regulation and shall have the ability to evaluate same and to
249 formulate accurate conclusions therefrom.

250 (b) A certified public accountant who possesses a
251 thorough knowledge of standard accounting procedures, techniques
252 and systems with specific reference to the utility industry. Such
253 accountant shall be experienced in public utility accounting and
254 shall have a thorough knowledge of the financial and
255 organizational structure of public utility companies to include
256 knowledge of the methods by which financing of major additions and
257 extensions to utility operations is acquired.

258 (c) A director of economics and planning who holds at
259 least a bachelor's degree in economics and possesses a thorough
260 knowledge of the principles and techniques of economic and
261 financial research and statistical analysis. The director of
262 economics and planning shall have a thorough knowledge of the
263 sources of economic, financial and statistical information and the
264 methods of utilizing these sources, as well as considerable
265 knowledge of capital markets with specific reference to utility
266 financing. This employee shall be experienced in conducting
267 analyses of the utility industry, the economy, cost of money,
268 availability and cost of fuel and energy and other related matters
269 within the authority of the commission.



270 (d) Supportive technical personnel consisting of rate
271 analysts, accountants, inspectors and statisticians as authorized
272 and appropriated by the Legislature.

273 (e) A general counsel, who shall be a member of The
274 Mississippi Bar, shall have practiced law for a minimum of five
275 (5) years and who shall possess considerable knowledge of utility
276 regulation generally and of the case law, statutory law and the
277 common law relating thereto.

278 (3) It shall be the duty and responsibility of the Public
279 Utilities Staff by and through the executive director to:

280 (a) In uncontested matters review, investigate and make
281 appropriate written recommendations to the commission with respect
282 to the reasonableness of rates charged or proposed to be charged
283 by any public utility and with respect to the consistency of such
284 rates with the public policy of assuring an energy supply adequate
285 to protect the public health and safety and to promote the general
286 welfare;

287 (b) Review, investigate and make appropriate written
288 recommendations to the commission with respect to the service
289 furnished or proposed to be furnished by any utility;

290 (c) When deemed necessary by the executive director, in
291 the broad public interest of the State of Mississippi, the using
292 and consuming public, and the public utilities, make written
293 recommendations and reports to the commission regarding all



294 commission proceedings affecting the rates or service of any
295 public utility;

296 (d) When deemed necessary by the executive director, in
297 the broad public interest of the State of Mississippi, the using
298 and consuming public, and the public utilities, petition the
299 commission to initiate proceedings to review, investigate and take
300 appropriate action with respect to the rates or service of public
301 utilities. Receipt of such petition shall be spread on the
302 minutes of the Public Service Commission. The commission shall,
303 within thirty (30) days of receipt of such petition, spread upon
304 its minutes and forward to the Executive Director of the Public
305 Utilities Staff a response detailing actions taken or proposed to
306 be taken;

307 (e) When deemed necessary by the executive director, in
308 the broad public interest of the State of Mississippi, the using
309 and consuming public, and the public utilities, make written
310 recommendations and reports to the commission regarding all
311 certificate applications filed and provide assistance to the
312 commission in making the analysis and plans required;

313 (f) When deemed necessary by the executive director, in
314 the broad public interest of the State of Mississippi, the using
315 and consuming public, and the public utilities, make written
316 recommendations and reports to the commission regarding all
317 proceedings wherein any public utility proposes to reduce or
318 abandon service to the public;



319 (g) Make studies with respect to standards,
320 regulations, practices or service of any public utility; however,
321 the Public Utilities Staff shall have no duty, responsibility or
322 authority with respect to the enforcement of natural gas pipeline
323 safety law, or the federal railroad safety laws, rules or
324 regulations;

325 (h) When deemed necessary by the executive director, in
326 the broad public interest of the State of Mississippi, the using
327 and consuming public, and the public utilities, make written
328 recommendations and reports to the commission regarding all
329 commission proceedings with respect to transfers of franchises,
330 mergers, consolidation and combination of public utilities;

331 (i) When deemed necessary by the executive director, in
332 the broad public interest of the State of Mississippi, the using
333 and consuming public and the public utilities, review and
334 investigate contracts of public utilities with affiliates or
335 subsidiaries;

336 (j) When deemed necessary by the executive director, in
337 the broad public interest of the State of Mississippi, the using
338 and consuming public, and the public utilities, advise the
339 commission with respect to regulations and transactions;

340 (k) When deemed necessary by the executive director, in
341 the broad public interest of the State of Mississippi, the using
342 and consuming public and the public utilities, review and make



343 recommendations to the commission on all miscellaneous uncontested
344 filings;

345 (l) Advise the Public Service Commission in writing as
346 to the broad public interest of the State of Mississippi, the
347 using and consuming public, and the public utilities in all major
348 rate cases and automatic adjustment clauses;

349 (m) When deemed necessary by the executive director, in
350 the broad public interest of the State of Mississippi, the using
351 and consuming public, and the public utilities, review and
352 investigate the justness and reasonableness, to both the public
353 and the public utility, of rates charged or proposed to be charged
354 by any public utility, the rates of which are subject to
355 regulation under the provisions of this chapter; and

356 (n) Accumulate evidence and other information from
357 public utilities and other sources as required or as may be
358 requested by the Public Service Commission.

359 (4) The Executive Director of the Public Utilities Staff
360 shall employ the resources of the staff to furnish to the
361 commission, in a timely and expeditious manner, such information
362 and reports or conduct such investigations and provide such other
363 assistance as may be required in order to enforce the laws
364 providing for the regulation of public utilities.

365 (5) All written recommendations and reports provided to the
366 Public Service Commission from the Public Utilities Staff shall
367 bear the signature of the executive director, who shall maintain a



368 record thereof, including the date such recommendation or report
369 was submitted to the commission.

370 (6) In no event shall the duties and responsibilities of the
371 Public Utilities Staff be exercised with regard to matters not
372 within the jurisdiction and powers of the Public Service
373 Commission.

374 **SECTION 11.** Section 77-2-11, Mississippi Code of 1972, is
375 brought forward as follows:

376 77-2-11. (1) A person who serves as (a) Commissioner of the
377 Public Service Commission, (b) Executive Director of the public
378 utilities staff, or (c) Executive Secretary of the commission
379 shall not, while employed with or within one (1) year after
380 leaving the commission or public utilities staff, accept
381 employment with, receive compensation directly or indirectly from,
382 or enter into a contractual relationship with an entity, or an
383 affiliate company of an entity, that was subject to rate
384 regulation by the commission at the time of his departure.

385 (2) An entity or an affiliate company of an entity that is
386 subject to rate regulation by the commission, or a person acting
387 on behalf of the entity or its affiliate, shall not negotiate or
388 offer to employ or compensate a commissioner of the Public Service
389 Commission, Executive Director of the public utilities staff or
390 the Executive Secretary of the commission, while the person is so
391 employed or within one (1) year after the person leaves that
392 employment.



393 (3) A person who is employed with the public utilities staff
394 shall not, within one (1) year, after leaving the public utilities
395 staff, accept employment with, or receive compensation, directly
396 or indirectly from the Public Service Commission or the public
397 service commission staff.

398 (4) A person who is employed with the Public Service
399 Commission or public service commission staff, shall not, within
400 one (1) year, after leaving the commission or public service
401 commission staff, accept employment with, or receive compensation,
402 directly or indirectly, from the public utilities staff.

403 (5) A person who violates this section is subject to a civil
404 penalty not to exceed Ten Thousand Dollars (\$10,000.00) for each
405 violation. The Attorney General may bring an action in circuit
406 court to collect the penalties provided in this section.

407 **SECTION 12.** Section 77-2-13, Mississippi Code of 1972, is
408 brought forward as follows:

409 77-2-13. (1) A public service commissioner, commission or
410 public utilities staff employee, or consultant assisting the
411 commission in investigating, compiling, evaluating and analyzing
412 the record shall not communicate, directly or indirectly,
413 regarding any issue in a contested proceeding other than
414 communications necessary to procedural aspects of maintaining an
415 orderly process, with any commission employee or consultant who
416 has participated in the proceeding in a public advocacy or
417 prosecutorial capacity, any party, his agent or other person



418 acting on his behalf who has a direct or indirect pecuniary
419 interest in the outcome of the proceeding, without notice and
420 opportunity for all parties to participate.

421 (2) A commission or public utilities staff employee, or
422 consultant who has participated in investigating, compiling,
423 evaluating and analyzing the record in a public advocacy or
424 prosecutorial capacity; any party, his agent or other person
425 acting on his behalf who has a direct or indirect pecuniary
426 interest shall not communicate, directly or indirectly, regarding
427 any issue in a contested proceeding other than communications
428 necessary to procedural aspects of maintaining an orderly process,
429 with any commissioner, employee or consultant assisting the
430 commissioners in investigating, compiling, evaluating and
431 analyzing the record, or any person who is or may reasonably be
432 expected to be involved in the decisional process of the
433 proceeding, without notice and opportunity for all parties to
434 participate.

435 (3) The provisions of this section shall not apply to the
436 following:

437 (a) Commissioners may communicate with one another
438 regarding any proceeding;

439 (b) Commissioners, either individually or as a group,
440 may receive aid in investigating, compiling, evaluating and
441 analyzing the record from legal counsel, other employees or
442 consultants of the commission or public utilities staff who have



443 not participated in the proceeding in a public advocacy or
444 prosecutorial capacity; and

445 (c) Commissioners may communicate, either individually
446 or as a group, with the general public about matters not regarding
447 a contested proceeding.

448 (4) The commission shall, in the event of a violation of
449 this section, take whatever action is necessary to ensure that
450 such violation does not prejudice any party or adversely affect
451 the fairness of the proceedings to include but is not limited to
452 the following:

453 (a) A public service commissioner, consultant, or
454 employee of the commission or public utilities staff who is or may
455 reasonably be expected to be involved in the investigation,
456 compilation, evaluation, analysis or decisional process of a
457 contested proceeding who receives an ex parte communication in
458 violation of this section shall place on the public record of the
459 pending matter all written communications received, all written
460 responses to the communications, and a memorandum stating the
461 substance of all oral communications received, all responses made,
462 and the identity of each person from whom the ex parte
463 communication was received. The chairman of the commission shall
464 advise all parties that these matters have been placed on the
465 record. Upon request made within ten (10) days after notice of
466 the ex parte communication, any party desiring to rebut the
467 communication shall be allowed to place a written rebuttal



468 statement on the record. Portions of the record pertaining to ex
469 parte communications or rebuttal statements do not constitute
470 evidence of any fact at issue in the matter unless a party moves
471 the admission of that portion of the record for purposes of
472 establishing a fact at issue and that portion of the record is so
473 admitted.

474 (b) If necessary to eliminate the effect of an ex parte
475 communication received in violation of this section, a
476 commissioner who receives the communication may be disqualified,
477 and the portions of the record pertaining to the communication may
478 be sealed by protective order.

479 (c) The commission may, in its discretion, require, to
480 the extent consistent with the interests of justice and the policy
481 of underlying statutes, the communicator to show cause why his
482 claim in the contested case should not be dismissed, denied,
483 disregarded or otherwise adversely affected as a result of such
484 violation.

485 (d) Any person found guilty of violating any provision
486 of this section shall be guilty of a misdemeanor and shall be
487 punished by imprisonment not to exceed six (6) months or a fine
488 not to exceed One Thousand Dollars (\$1,000.00), or both.

489 (5) A proceeding shall be considered contested in the
490 following:



491 (a) Upon the initiation of any proceedings requiring a
492 party to show cause why any action by the commission should not be
493 taken;

494 (b) In a rate change proceeding when a rate filing is
495 suspended; and

496 (c) In any adversarial proceeding, when any objection
497 or contest is filed by any party.

498 A contested proceeding remains pending until the commission
499 has issued its final order, and the time to petition for
500 reconsideration has expired or the commission has issued an order
501 finally disposing of an application for reconsideration, whichever
502 is later.

503 **SECTION 13.** Section 77-2-15, Mississippi Code of 1972, is
504 brought forward as follows:

505 77-2-15. Nothing in this chapter prevents the Public
506 Utilities Staff, the Public Service Commission staff or the
507 commission from entering into agreements with other agencies to
508 coordinate and share services, to conduct joint projects or
509 investigations on matters within the authority and jurisdiction of
510 the parties thereto, or to temporarily assign staff to such
511 projects. No cooperative effort shall interfere with the
512 independence and integrity of either the commission, the Public
513 Service Commission staff, the Public Utilities Staff or any other
514 agency that is a party.



515 **SECTION 14.** Section 77-2-17, Mississippi Code of 1972, is
516 brought forward as follows:

517 77-2-17. (1) All valid rules, orders and directives
518 heretofore enforced, issued or promulgated by the Public Service
519 Commission shall remain and continue in force and effect until
520 repealed, modified or superseded by duly authorized rules, orders
521 or directives of the Public Service Commission.

522 (2) The Public Service Commission shall ensure that the
523 Public Utilities Staff, upon request, shall have access to and
524 copies of all data filed with the commission in connection with
525 any proceeding before the commission.

526 **SECTION 15.** Section 77-2-19, Mississippi Code of 1972, is
527 brought forward as follows:

528 77-2-19. (1) There is hereby established in the State
529 Treasury a special fund to be known as the "Public Utilities Staff
530 Regulation Fund." Such fund shall be the sole fund of the Public
531 Utilities Staff for all monies collected and deposited to the
532 credit of or appropriated to the Public Utilities Staff. The fund
533 shall be administered as provided in this section and Section
534 77-3-87 and shall be audited annually by the State Auditor.

535 (2) The Department of Finance and Administration shall
536 advise the Public Utilities Staff of the amount of money on hand
537 in the "Public Utilities Staff Regulation Fund" from time to time.
538 All expenses of the Public Utilities Staff shall be paid by the
539 State Treasurer upon warrants issued by the State Fiscal Officer,



540 and the State Fiscal Officer shall issue his warrants upon
541 requisitions signed by the Executive Director of the Public
542 Utilities Staff. All disbursements made by the executive director
543 from the fund for any purposes, other than salaries, shall be
544 supported by a detailed and itemized statement approved by the
545 executive director. The salaries of all employees of the Public
546 Utilities Staff shall be paid out of the appropriations made to
547 defray the expenses of the Public Utilities Staff upon
548 requisitions and warrants as provided herein. Of the revenue
549 arising from the increased regulatory tax imposed in Section
550 77-3-87, an amount not less than Three Hundred Fifty-four Thousand
551 One Hundred Thirty-nine Dollars (\$354,139.00) may be expended by
552 the executive director for operating increase and salaries to fund
553 additional accounting and telecommunication positions for the
554 Public Utilities Staff. An itemized account shall be kept of all
555 receipts and expenditures and shall be reported to the Legislature
556 by the Public Utilities Staff.

557 **SECTION 16.** Section 77-3-2, Mississippi Code of 1972, is
558 brought forward as follows:

559 77-3-2. (1) The Legislature finds and determines that the
560 rates, services and operations of public utilities as defined in
561 this title are affected with the public interest and that the
562 availability of an adequate and reliable service by such public
563 utilities to the people, economy and government of the State of



564 Mississippi is a matter of public policy. The Legislature hereby
565 declares to be the policy of the State of Mississippi:

566 (a) To provide fair regulation of public utilities in
567 the interest of the public;

568 (b) To promote the inherent advantage of regulated
569 public utilities;

570 (c) To promote adequate, reliable and economical
571 service to all citizens and residents of the state;

572 (d) To provide just and reasonable rates and charges
573 for public utility services without unjust discrimination, undue
574 preferences or advantages, or unfair or destructive competitive
575 practices and consistent with long-term management and
576 conservation of energy resources by avoiding wasteful, uneconomic
577 and inefficient uses of energy;

578 (e) To encourage and promote harmony between public
579 utilities, their users and the environment;

580 (f) To foster the continued service of public utilities
581 on a well-planned and coordinated basis that is consistent with
582 the level of service needed for the protection of public health
583 and safety and for the promotion of the general welfare;

584 (g) To cooperate with other states and the federal
585 government in promoting and coordinating interstate and intrastate
586 public utility service and reliability;

587 (h) To encourage the continued study and research for
588 new and innovative rate-making procedures which will protect the



589 state, the public, the ratepayers and the utilities, and where
590 possible reduce the costs of the rate-making process; and

591 (i) With respect to rate-regulated public utilities, to
592 foster, encourage, enable and facilitate economic development in
593 the State of Mississippi, and to support and augment economic
594 development activities, and to authorize and empower the Public
595 Service Commission, in carrying out its statutory
596 responsibilities, to take every opportunity to advance the
597 economic development of the state.

598 (2) To these ends, therefore, authority shall be vested in
599 the Mississippi Public Service Commission to regulate public
600 utilities in accordance with the provisions of this title.

601 (3) (a) The commission shall, in addition to its other
602 powers and duties, be authorized and empowered, in its discretion,
603 to consider and adopt a formula type rate of return evaluation
604 rate which may include provision for the commission to:

605 (i) Periodically review and adjust, if required,
606 the utility's level of revenues based upon the actual books and
607 records of the utility which are periodically the subject of
608 independent audits and regulatory audits;

609 (ii) Review the utility's performance in certain
610 areas or categories which may be used by the commission in the
611 manner selected by it which may include rate incentives or
612 penalties so long as such are found to be fair and reasonable and
613 result in a level of revenue which is fair and reasonable; and



614 (iii) Use such other provisions which may be
615 permitted by this chapter.

616 (b) When a formula type rate of return evaluation rate
617 with periodic revenue adjustments is adopted by the commission,
618 each periodic revenue adjustment will be separately considered for
619 the purpose of determining whether a hearing is required pursuant
620 to Section 77-3-39(1), and no such hearing shall be required if
621 the amount of any separate periodic adjustment to the level of
622 revenues of the utility is not a "major change" as defined in
623 Section 77-3-37(8).

624 (c) In administering any such formula type rate of
625 return evaluation rate, the following procedures shall be observed
626 by the commission:

627 (i) Each periodic evaluation shall be supported
628 with a sworn filing by the utility incorporating the data
629 specified in the formula rate adopted by the commission, and such
630 data shall be verified by the commission; and

631 (ii) A hearing shall be required, as provided by
632 law, to determine compliance with the formula rate plan and the
633 accuracy of the data prior to any change in the level of revenues
634 if the cumulative change in any calendar year exceeds the greater
635 of Two Hundred Thousand Dollars (\$200,000.00) or four percent (4%)
636 of the annual revenues of the utility.

637 (d) The requirements of paragraphs (a), (b) and (c) of
638 this subsection and other applicable provisions of Title 77,



639 Chapter 3, Article 1, Mississippi Code of 1972, which are observed
640 by the commission in administering such rate, are hereby declared
641 to be procedural but are not required to be included in the rate
642 itself.

643 (4) It is the intention of the Legislature to validate,
644 retroactively to its initial adoption by the commission, any
645 formula type rate, including any revenue adjustments effected
646 pursuant thereto, which has heretofore been adopted by the
647 commission. For the purposes of the retroactive validation and
648 the administration of any formula type rate heretofore adopted by
649 the commission, should the provisions of Title 77, Chapter 3,
650 Article 1, Mississippi Code of 1972, conflict with any provisions
651 of such formula type rate, Title 77, Chapter 3, Article 1,
652 Mississippi Code of 1972, shall be interpreted to prevail and the
653 formula type rate shall hereafter be administered or revised to
654 conform to Title 77, Chapter 3, Article 1, Mississippi Code of
655 1972; provided, however, such conflict, if any, shall not be held
656 to invalidate the retroactive effect of this section upon such
657 rate.

658 **SECTION 17.** This act shall take effect and be in force from
659 and after July 1, 2018.

