

By: Senator(s) Jolly, Hill

To: Energy

SENATE BILL NO. 2665

1 AN ACT TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE DEPOSITS IN THE DEFINITION OF THE TERM "RATE" AS USED IN
3 THE LAW WHICH PROVIDES FOR THE REGULATION OF PUBLIC UTILITIES; AND
4 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



hereafter owning or operating in this state equipment or facilities for:

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

(ii) The transmission, sale, sale for resale, or distribution of natural, artificial, or mixed natural and artificial gas to the public for compensation by means of transportation, transmission, or distribution facilities and equipment located within this state; however, the term shall not include the production and gathering of natural gas, the sale of natural gas in or within the vicinity of the field where produced, or the distribution or sale of liquefied petroleum gas or the sale to the ultimate consumer of natural gas for use as a motor vehicle fuel;

(iii) The transmission, conveyance or reception of any message over wire, of writing, signs, signals, pictures and sounds of all kinds by or for the public, where such service is offered to the public for compensation, and the furnishing, or the furnishing and maintenance, of equipment or facilities to the public, for compensation, for use as a private communications system or part thereof; however, no person or corporation not otherwise a public utility within the meaning of this chapter shall be deemed such solely because of engaging in this state in the furnishing, for private use as last aforementioned, and moreover, nothing in this chapter shall be construed to apply to



45 television stations, radio stations, community television antenna
46 services, video services, voice over Internet protocol services
47 ("VoIP"), any wireless services including commercial mobile
48 services, Internet protocol ("IP") - enabled services or broadband
49 services; and

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

55 The term "public utility" shall not include any person not
56 otherwise a public utility, who furnishes the services or
57 commodity described in this paragraph only to himself, his
58 employees or tenants as an incident of such employee service or
59 tenancy, if such services are not sold or resold to such tenants
60 or employees on a metered or consumption basis other than the
61 submetering authorized under Section 77-3-97.

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

65 (e) The term "rate" means and includes every
66 compensation, charge, deposit, fare, toll, rental and
67 classification, or the formula or method by which such may be
68 determined, or any of them, demanded, observed, charged or
69 collected by any public utility for any service, product or



commodity described in this section, offered by it to the public, and any rules, regulations, practices or contracts relating to any such compensation, charge, deposit, fare, toll, rental or classification; however, the term "rate" shall not include charges for electrical current furnished, delivered or sold by one public utility to another for resale.

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

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

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

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

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

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



95 person or corporation in any chain of successive ownership of
96 twenty-five percent (25%) of such securities;

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

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

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

114 (h) The term "facilities" includes all the plant and
115 equipment of a public utility, used or useful in furnishing public
116 utility service, including all real and personal property without
117 limitation, and any and all means and instrumentalities in any
118 manner owned, operated, leased, licensed, used, controlled,



furnished or supplied for, by or in connection with its public utility business.

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

(j) The term "lead-lag study" includes an analysis to determine the amount of capital which investors in a public utility, the rates of which are subject to regulation under the provisions of this chapter, must provide to meet the day-to-day operating costs of the public utility prior to the time such costs are recovered from customers, and the measurement of (i) the lag in collecting from the customer the cost of providing service, and (ii) the lag in paying the cost of providing service by the public utility.

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

(i) Is used to provide access to the Internet, or

(ii) Provides computer processing, information storage, information content or protocol conversion, including any service applications or information service provided over such high-speed access service.



(l) The term "video services" means video programming services without regard to delivery technology, including Internet protocol technology ("Internet Protocol television or IPTV") and video programming provided as a part of a service that enables users to access content, information, email or other services offered over the public Internet. The term "video programming" means any programming as defined in 47 USCS Section 522(20).

(m) The term "Voice over Internet Protocol services" or "VoIP services" means any service that: (i) enables real-time, two-way voice communications that originate from or terminate to the user's location in Internet protocol or any successor protocol; (ii) uses a broadband connection from the user's location; and (iii) permits users generally to receive calls that originate on the public switched telephone network and to terminate calls to the public switched telephone network.

(n) The term "commercial mobile services" means any services as defined in 47 USCS Section 332(d).

(o) The term "Internet protocol-enabled services" or "IP-enabled services" means any service, capability, functionality, or application provided using Internet protocol, or any successor protocol, that enables an end user to send or receive a communication in Internet protocol format, or any successor format, regardless of whether the communications is voice, data or video.



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

170 **SECTION 2.** This act shall take effect and be in force from
171 and after July 1, 2018.

