

By: Senator(s) Bryan

To: Energy

SENATE BILL NO. 2206

1 AN ACT TO AMEND SECTION 77-5-205, MISSISSIPPI CODE OF 1972,
2 TO EXPAND THE PURPOSE OF ELECTRIC POWER ASSOCIATIONS TO ALLOW THEM
3 TO PROVIDE BROADBAND SERVICES; TO PROVIDE THAT EASEMENTS OWNED,
4 HELD OR OTHERWISE USED BY THE ASSOCIATIONS MAY BE USED FOR THIS
5 EXPANDED PURPOSE; TO AMEND SECTIONS 77-5-203 AND 77-5-231,
6 MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS
7 ACT; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 77-5-205, Mississippi Code of 1972, is
10 amended as follows:

11 77-5-205. Three (3) or more natural persons may, by
12 executing, filing and recording a certificate as hereafter
13 provided in this article, form a corporation not organized for
14 pecuniary profit for the purpose of (a) promoting and encouraging
15 the fullest possible use of electric energy by making electric
16 energy available at the lowest cost consistent with sound economy
17 and prudent management of the business of such corporations; and,
18 if operating to serve that purpose regarding electric energy, (b)
19 making available broadband services, as defined under Section
20 77-3-3. Any easement owned, held or otherwise used by the



corporation in pursuit of a primary purpose may be used for any
secondary purpose.

SECTION 2. Section 77-5-203, Mississippi Code of 1972, is
amended as follows:

77-5-203. The following terms whenever used or referred to
in this article shall have the following meanings, unless a
different meaning clearly appears from the context:

(a) "Corporation" shall mean a corporation formed under
this article or operating under this article pursuant to Section
77-5-213.

(b) "Bonds" shall mean and include bonds, interim
certificates or receipts, notes, debentures and all other
evidences of indebtedness, either issued or the payment thereof
assumed by the corporation.

(c) "Person" shall mean and include natural persons,
firms, associations, corporations, business trusts, partnerships
and bodies politic.

(d) "Energy" shall mean and include any and all
electric energy no matter how or where generated or produced.

(e) "Acquire" shall mean and include construct, acquire
by purchase, lease, devise, gift, or other mode of acquisition.

(f) "System" shall mean and include any plant, works,
system, facilities, or properties, or parts thereof, together with
all appurtenances thereto, used or useful in connection with the



generation, production, transmission or distribution of energy or
broadband services.

(g) "Law" shall mean any act or statute, general,
special or local of this state.

(h) "Federal agency" shall mean and include the United
States of America, the President of the United States of America,
Tennessee Valley Authority, the Federal Emergency Management
Agency, the United States Department of Agriculture and its
agencies, including the Rural Utilities Service, and any and all
other authorities, agencies and instrumentalities of the United
States of America, heretofore or hereafter created.

(i) "Improve" shall mean and include construct,
reconstruct, improve, replace, extend, enlarge, alter, better or
repair.

(j) "Board" shall mean the board of directors of a
corporation formed under this article.

(k) "Member" shall mean and include each natural person
signing the certificate of incorporation of a corporation and each
person admitted to and retaining membership therein pursuant to
law or its bylaws, and shall include a joint membership as defined
by the corporation's bylaws.

(l) "Services" or "service" shall mean the sale or
other disposition of energy, electrical appliances, wiring * * *,
equipment and broadband services at the lowest cost consistent



with sound economy, public advantage and the prudent conduct of the business of a corporation.

(m) "Certificate of incorporation" includes a certificate of incorporation or articles of incorporation.

(n) "Rate" means and includes every compensation, charge, deposit, contribution, fee, fare, toll, rental, cost and classification, or the formula or method by which such may be determined, or any of them, demanded, observed, charged, collected, avoided, or owed by a corporation for or relating to electric energy offered or provided by the corporation to the public or received by the corporation, and any rules, regulations, practices or contracts relating to any such compensation, charge, deposit, contribution, fee, fare, toll, rental, cost, or classification, including, but not limited to, any rules, regulations, practices or contracts relating to the disconnection of service to members or nonmember customers who have failed to pay for electric energy provided by the corporation.

SECTION 3. Section 77-5-231, Mississippi Code of 1972, is amended as follows:

77-5-231. (1) A corporation shall have power to do any and all acts or things necessary or convenient for carrying out the purposes for which it was formed, including, but not limited to:

(a) To sue and be sued.

(b) To have a seal and alter the same at pleasure.



93 (c) To acquire, hold and dispose of property, real and
94 personal, tangible and intangible, or interests therein and to pay
95 therefor in cash or property or on credit, and to secure and
96 procure payment of all or any part of the purchase price thereof
97 on such terms and conditions as the board shall determine.

98 (d) To render service and to acquire, own, operate,
99 maintain and improve a system or systems within the state and in
100 counties adjacent thereto.

101 (e) To pledge all or any part of its revenues and to
102 mortgage or otherwise incumber all or any part of its property for
103 the purpose of securing the payment of the principal of and
104 interest on any of its bonds or other obligations.

105 (f) To use any right-of-way, easement or other similar
106 property right necessary or convenient in connection with the
107 acquisition, improvement, operation or maintenance of a system,
108 granted by the state or any political subdivision thereof,
109 provided that the governing body of such political subdivision
110 shall consent to such use, and to have and exercise the power of
111 eminent domain in the manner provided by the condemnation laws of
112 this state for acquiring private property for public use, such
113 right to be paramount except as to the property of the state or of
114 any political subdivision thereof.

115 (g) To accept gifts or grants of money, property, real
116 or personal, from any person, municipality or federal agency and
117 to accept voluntary and uncompensated services.



118 (h) To make any and all contracts necessary or
119 convenient for the full exercise of the powers in this article
120 granted, including, but not limited to, contracts with any person,
121 federal agency, state agency or municipality for the purchase,
122 transfer or sale of energy or broadband services and/or the
123 acquisition of all or any part of any system, and in connection
124 with any such contract to stipulate and agree to such covenants,
125 terms and conditions as the board may deem appropriate, including
126 covenants, terms and conditions with respect to the resale rates,
127 financial and accounting methods, services, operation and
128 maintenance practices and the manner of disposing of the revenues
129 of the system operated and maintained by the corporation.

130 (i) To sell, lease, or otherwise dispose of all or any
131 part of its property, subject however to the provisions of Section
132 77-5-237.

133 (j) To contract debts, borrow money and to issue,
134 assume or indorse the payment of bonds or other evidences of
135 indebtedness.

136 (k) To fix, maintain and collect fees, rents, tolls and
137 other charges for services rendered.

138 (l) To acquire and to sell, lease, distribute and
139 generally to deal in electrical * * *, plumbing and broadband
140 services appliances, apparatus, machinery and equipment for the
141 purpose of and in connection with the promotion of the sale of
142 electric energy or broadband services to its customers; to assist



143 its customers to purchase or otherwise obtain such appliances,
144 apparatus, machinery and equipment; to assist its customers to
145 wire their premises and to install therein such appliances,
146 apparatus, machinery and equipment; to acquire and to indorse,
147 sell, pledge, hypothecate and dispose of notes, bonds and other
148 obligations of its customers in carrying out the purposes
149 expressed in this paragraph.

150 (m) To maintain, in any reasonable manner and in its
151 discretion, its easements and rights-of-way and adjacent property
152 within a reasonable or necessary distance of its energy and
153 broadband services facilities free of vegetation, trees, limbs or
154 other impediments in order to foster the integrity and reliability
155 of the corporation's electric energy and broadband services system
156 or the safety of the public or its members, agents or employees.

157 (n) To condemn any land, easements, or rights-of-way,
158 either on, under, or above the ground, as the association may deem
159 necessary for any purposes mentioned in this article other than
160 the purposes described in subsection (2) of this section, and such
161 property or interest in such property may be so acquired whether
162 or not the same is owned or held for public use by corporations,
163 associations or persons having the power of eminent domain, or
164 otherwise held or used for public purposes. Such power of
165 condemnation may be exercised in the mode or method of procedure
166 prescribed by Chapter 27, Title 11, Mississippi Code of 1972, or
167 in the mode or method of procedure prescribed by any other



168 applicable statutory provisions now in force or hereafter enacted
169 for the exercise of the power of eminent domain. Where
170 condemnation proceedings become necessary, the judge of the
171 circuit court or the judge of the county court in counties where
172 the county court exists, in which such proceedings are filed,
173 shall, upon application of the authority, and upon the deposit in
174 court, to the use of the person or persons lawfully entitled
175 thereto, of such amount as the judge may deem necessary to assure
176 just compensation, order that the right of possession shall issue
177 immediately or as soon and upon such terms as the judge, in his
178 discretion, may deem just and proper. Upon application of the
179 parties in interest other than the corporation, the judge may
180 order that the money deposited in the court, or any part thereof,
181 be paid forthwith for or on account of the just compensation to be
182 awarded in said proceedings.

183 (o) To operate across state lines.

184 (p) To perform any and all of the foregoing acts and to
185 do any and all of the foregoing things under, through or by means
186 of its own officers, agents and employees, or by contracts with
187 any person, federal agency or municipality.

188 (2) Any generation and transmission electric corporation
189 created under this article may undertake economic development
190 activities, whether directly, indirectly, or in conjunction with
191 other entities, including activities such as providing capital, or
192 investment in or acquisition and development of business or



193 industrial sites and the necessary infrastructure or services
194 needed to attract new or existing businesses or industry, to
195 create or maintain employment opportunities, or otherwise to
196 positively impact its service territory or in some manner promote
197 the sale of electric energy or broadband services.

198 **SECTION 4.** This act shall take effect and be in force from
199 and after July 1, 2019.

