

By: Senator(s) Doty

To: Energy

## SENATE BILL NO. 2386

1 AN ACT TO REENACT SECTIONS 77-1-1, 77-1-3, 77-1-5, 77-1-6,  
2 77-1-11, 77-1-15, 77-1-25, 77-1-27, 77-1-29, 77-1-31, 77-1-33,  
3 77-1-35, 77-1-37, 77-1-39, 77-1-41, 77-1-43, 77-1-47 AND 77-1-49,  
4 MISSISSIPPI CODE OF 1972, WHICH CREATE THE PUBLIC SERVICE  
5 COMMISSION AND PRESCRIBE ITS POWERS AND DUTIES; TO AMEND REENACTED  
6 SECTIONS 77-1-1, 77-1-11, 77-1-15 AND 77-1-27, MISSISSIPPI CODE OF  
7 1972, TO REMOVE REFERENCES TO COMMON OR CONTRACT CARRIER BY MOTOR  
8 VEHICLE; TO AMEND SECTION 77-1-51, MISSISSIPPI CODE OF 1972, TO  
9 EXTEND THE DATE OF REPEAL ON THOSE SECTIONS; TO AMEND SECTION  
10 77-1-55, MISSISSIPPI CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON  
11 THIS SECTION WHICH AUTHORIZES THE COMMISSION AND THE PUBLIC  
12 UTILITIES STAFF TO HIRE ATTORNEYS AND CONSULTANTS FOR CERTAIN  
13 PROCEEDINGS; TO AMEND SECTION 77-3-93, MISSISSIPPI CODE OF 1972,  
14 TO TREAT RENEWABLE PURCHASES LIKE OTHER POWER PURCHASES; TO AMEND  
15 SECTION 77-3-42, MISSISSIPPI CODE OF 1972, TO CHANGE THE DATE BY  
16 WHICH THE COMMISSION MUST PROVIDE A FULL REPORT OF CERTAIN AUDITS  
17 TO THE LEGISLATURE; TO REPEAL SECTION 77-1-17, MISSISSIPPI CODE OF  
18 1972, WHICH AUTHORIZES THE PUBLIC SERVICE COMMISSION TO EMPLOY A  
19 COMPETENT RATE EXPERT AND AN ASSISTANT RATE EXPERT; TO REPEAL  
20 SECTION 77-1-19, MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE  
21 PUBLIC SERVICE COMMISSION TO EMPLOY PERSONNEL TO IMPLEMENT THE  
22 MOTOR CARRIER REGULATORY LAW; TO REPEAL SECTION 77-1-21,  
23 MISSISSIPPI CODE OF 1972, WHICH AUTHORIZES THE DEPARTMENT OF  
24 TRANSPORTATION TO EMPLOY AN ENFORCEMENT OFFICER AND INSPECTORS TO  
25 IMPLEMENT THE MOTOR CARRIER REGULATORY LAW; AND FOR RELATED  
26 PURPOSES.

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

28 **SECTION 1.** Section 77-1-1, Mississippi Code of 1972, is  
29 reenacted and amended as follows:



30           77-1-1. A public service commission, hereinafter referred to  
31 in this chapter as the commission, is hereby created, consisting  
32 of three (3) members, one (1) to be elected from each of the three  
33 (3) Supreme Court districts by the qualified electors of such  
34 district. Elections for such officers shall be held in the  
35 general election in November 1959, and every four (4) years  
36 thereafter, and the terms of office of the three (3) commissioners  
37 elected at the general election in November 1959 shall expire on  
38 December 31, 1963.

39           The commissioners shall each receive a yearly salary fixed by  
40 the Legislature, payable monthly.

41           The commissioners shall each possess the qualifications  
42 prescribed for the Secretary of State. The commissioners shall  
43 not operate, own any stock in, or be in the employment of  
44 any \* \* \* telephone company, gas or electric utility company, or  
45 any other public utility that shall come under their jurisdiction  
46 or supervision.

47           **SECTION 2.** Section 77-1-3, Mississippi Code of 1972, is  
48 reenacted as follows:

49           77-1-3. The commission shall have a seal, having around the  
50 margin the words "Mississippi Public Service Commission," and in  
51 the center such device as it may select. The acts of the  
52 commission shall be authenticated by its seal.

53           **SECTION 3.** Section 77-1-5, Mississippi Code of 1972, is  
54 reenacted as follows:



55           77-1-5. The commission shall keep an office in the City of  
56 Jackson, which shall be kept open Monday through Friday of each  
57 week for eight (8) hours each day. The commission shall meet at  
58 its office on the first Tuesday of each month and at such other  
59 times and places as its duties may require. The commission may  
60 sit from day to day and from time to time, and any meeting may be  
61 pretermitted not exceeding two (2) in any year.

62           The members of the commission shall devote their entire time  
63 to the performance of their official duties on every business day,  
64 except on the legal holidays enumerated in Section 3-3-7,  
65 Mississippi Code of 1972. However, official acts of the  
66 commission done on legal holidays shall be valid.

67           The commission shall keep regular minutes of its proceedings,  
68 which shall be a public record, and all orders, findings and acts  
69 of the commission shall be entered on the minutes.

70           Two (2) members of the commission shall be a quorum.

71           **SECTION 4.** Section 77-1-6, Mississippi Code of 1972, is  
72 reenacted as follows:

73           77-1-6. There is hereby established in the State Treasury a  
74 special fund to be known as the "Public Service Commission  
75 Regulation Fund." Such fund shall be the sole fund of the  
76 commission for all monies collected and deposited to the credit of  
77 or appropriated to the commission. The fund shall be administered  
78 as provided in this title and shall be audited annually by the  
79 State Auditor.



80 From and after July 1, 2016, the expenses of this agency  
81 shall be defrayed by appropriation from the State General Fund and  
82 all user charges and fees authorized under this section shall be  
83 deposited into the State General Fund as authorized by law and as  
84 determined by the State Fiscal Officer.

85 From and after July 1, 2016, no state agency shall charge  
86 another state agency a fee, assessment, rent or other charge for  
87 services or resources received by authority of this section.

88 **SECTION 5.** Section 77-1-11, Mississippi Code of 1972, is  
89 reenacted and amended as follows:

90 77-1-11. (1) It shall be unlawful for any public service  
91 commissioner, any candidate for public service commissioner, or  
92 any employee of the Public Service Commission or Public Utilities  
93 Staff to knowingly accept any gift, pass, money, campaign  
94 contribution or any emolument or other pecuniary benefit  
95 whatsoever, either directly or indirectly, from any person  
96 interested as owner, agent or representative, or from any person  
97 acting in any respect for such owner, agent or representative of  
98 any \* \* \* telephone company, gas or electric utility company, or  
99 any other public utility that shall come under the jurisdiction or  
100 supervision of the Public Service Commission. Any person found  
101 guilty of violating the provisions of this subsection shall  
102 immediately forfeit his or her office or position and shall be  
103 fined not less than Five Thousand Dollars (\$5,000.00), imprisoned  
104 in the State Penitentiary for not less than one (1) year, or both.



105           (2) It shall be unlawful for any person interested as owner,  
106 agent or representative, or any person acting in any respect for  
107 such owner, agent or representative of any \* \* \* telephone  
108 company, gas or electric utility, or any other public utility that  
109 shall come under the jurisdiction or supervision of the Public  
110 Service Commission to offer any gift, pass, money, campaign  
111 contribution or any emolument or other pecuniary benefit  
112 whatsoever to any public service commissioner, any candidate for  
113 public service commissioner or any employee of the Public Service  
114 Commission or Public Utilities Staff. Any party found guilty of  
115 violating the provisions of this subsection shall be fined not  
116 less than Five Thousand Dollars (\$5,000.00), or imprisoned in the  
117 State Penitentiary for not less than one (1) year, or both.

118           (3) For purposes of this section, the term "emolument" shall  
119 include salary, donations, contributions, loans, stock tips,  
120 vacations, trips, honorarium, directorships or consulting posts.  
121 Expenses associated with social occasions afforded public servants  
122 shall not be deemed a gift, emolument or other pecuniary benefit  
123 as defined in Section 25-4-103(k), Mississippi Code of 1972.

124           (4) For purposes of this section, a person who is a member  
125 of a water, gas, electric or other cooperative association  
126 regulated by the Public Service Commission shall not, by virtue of  
127 such membership, be deemed an owner, agent or representative of  
128 such association unless such person is acting in any respect for  
129 or as an owner, agent or representative of such association; nor



130 shall a person who owns less than one-half of one percent (1/2 of  
131 1%) in stock, the value thereof not to exceed Ten Thousand Dollars  
132 (\$10,000.00), of any public utility that is regulated by the  
133 Public Service Commission, or of any holding company of such  
134 public utility, by virtue of such ownership, be deemed an owner,  
135 agent or representative of such public utility unless such person  
136 is acting in any respect for or as an owner, agent or  
137 representative of such public utility.

138       **SECTION 6.** Section 77-1-15, Mississippi Code of 1972, is  
139 reenacted and amended as follows:

140       77-1-15. (1) There shall be an executive secretary of the  
141 commission, hereinafter referred to in this chapter as the  
142 secretary, to be appointed by the commission, by and with the  
143 advice and consent of the Senate, for the term of the  
144 commissioners. The secretary must have the same qualifications as  
145 the commissioners and shall be subject to the same  
146 disqualifications and to like penalties, except that he shall not  
147 be liable to impeachment. He shall receive a salary fixed by the  
148 Legislature. He shall take the oath of office and shall be  
149 removable at the pleasure of the commission, which may fill any  
150 vacancy until the Senate confirms a successor. The secretary  
151 shall make bond as provided for other state officers, in the sum  
152 of Ten Thousand Dollars (\$10,000.00), conditioned upon the  
153 faithful performance of the duties of his office.



154           (2) The secretary shall collect all fees and penalties  
155 collected by or paid to the commission, and shall cover the same  
156 into the State Treasury \* \* \*.

157           (3) The secretary of the commission shall be the custodian  
158 of all records, documents, and the seal of the commission. He  
159 shall issue all citations, subpoenas and other rightful orders and  
160 documents, and perform all other duties usually required of such  
161 officer, and as required by the commission.

162           (4) It shall be the duty and responsibility of the secretary  
163 to supervise and manage the offices and staff of the Public  
164 Service Commission and formulate written policies and procedures  
165 for the effective and efficient operation of the office and  
166 present these policies and procedures to the board for  
167 promulgation.

168           (5) From and after July 1, 2016, the expenses of this agency  
169 shall be defrayed by appropriation from the State General Fund and  
170 all user charges and fees authorized under this section shall be  
171 deposited into the State General Fund as authorized by law.

172           (6) From and after July 1, 2016, no state agency shall  
173 charge another state agency a fee, assessment, rent or other  
174 charge for services or resources received by authority of this  
175 section.

176           **SECTION 7.** Section 77-1-25, Mississippi Code of 1972, is  
177 reenacted as follows:



178           77-1-25. No member of the staff of the commission, or any  
179 other person, shall use uniforms, material, or equipment of the  
180 commission for private or political purposes. Members of the  
181 staff of the commission may be candidates for political office but  
182 must take a leave of absence to do so. Members of the staff of  
183 the commission may take part in political campaigns other than  
184 campaigns for Public Service Commission but may not solicit or  
185 receive campaign contributions from regulated utilities. Anyone  
186 violating the provisions of this section shall be guilty of a  
187 misdemeanor and, upon conviction, shall be punished as provided by  
188 law and shall be dismissed from the staff of the commission.

189           **SECTION 8.** Section 77-1-27, Mississippi Code of 1972, is  
190 reenacted and amended as follows:

191           77-1-27. All commission employees provided for in this  
192 chapter \* \* \* shall be paid out of the appropriations made to  
193 defray the expenses of the commission, upon requisitions and  
194 warrants in the same manner provided by law for the disbursements  
195 of appropriations for the commission. An itemized account shall  
196 be kept of all receipts and expenditures and shall be reported to  
197 the Legislature by the commission.

198           **SECTION 9.** Section 77-1-29, Mississippi Code of 1972, is  
199 reenacted as follows:

200           77-1-29. On or before the twentieth day of each calendar  
201 month, the commission shall pay into the State Treasury to the  
202 account of the "Public Service Commission Regulation Fund" all





203 monies collected by it during the preceding calendar month,  
204 showing from whom collected, when collected and for what purposes  
205 collected. All disbursements made by the commission or from the  
206 regulation fund for any purposes, other than for salaries provided  
207 by law, shall be supported by a detailed and itemized statement  
208 approved by the commission for commission disbursements. The  
209 commission shall not expend funds from the "Public Service  
210 Commission Regulation Fund" to employ personnel whose services  
211 would duplicate services provided by any employee of the Public  
212 Utilities Staff.

213 From and after July 1, 2016, the expenses of this agency  
214 shall be defrayed by appropriation from the State General Fund and  
215 all user charges and fees authorized under this section shall be  
216 deposited into the State General Fund as authorized by law.

217 From and after July 1, 2016, no state agency shall charge  
218 another state agency a fee, assessment, rent or other charge for  
219 services or resources received by authority of this section.

220 **SECTION 10.** Section 77-1-31, Mississippi Code of 1972, is  
221 reenacted as follows:

222 77-1-31. The commission shall keep a docket of petitions and  
223 complaints, which shall be entered in regular order. The docket  
224 shall be called at each regular meeting of the board, and the  
225 cases thereon disposed of, or, if necessary, continued until the  
226 next meeting.



227           **SECTION 11.** Section 77-1-33, Mississippi Code of 1972, is  
228 reenacted as follows:

229           77-1-33. In any matter of inquiry pending before the  
230 commission or any member thereof, subpoenas for witnesses, and  
231 subpoenas duces tecum, may be issued by the secretary, under seal,  
232 or by any member without the seal, and shall be executed and  
233 returned by any sheriff, constable, or marshal, under the like  
234 penalties of law for failure to execute and return the process of  
235 the circuit court. If any person duly summoned to appear and  
236 testify before the commission, or before any one or more of the  
237 commissioners, shall fail or refuse to appear and testify, or to  
238 bring and produce, as commanded, any book, paper, or document,  
239 without a lawful excuse, or shall refuse to answer any proper  
240 question propounded to him by the commission or any of the  
241 commissioners, or if any person shall obstruct the commission, or  
242 one or more of the commissioners in the discharge of duty, or  
243 shall conduct himself in a rude, disrespectful, or disorderly  
244 manner before the commission deliberating in the discharge of  
245 duty, such witness or person shall be guilty of a misdemeanor,  
246 and, upon conviction, shall be fined not more than One Thousand  
247 Dollars (\$1,000.00), or be imprisoned in the county jail for a  
248 period not exceeding six (6) months, or both.

249           **SECTION 12.** Section 77-1-35, Mississippi Code of 1972, is  
250 reenacted as follows:



251           77-1-35. The several members of the commission and the  
252 secretary may, in the discharge of their duties, administer oaths  
253 and take affidavits. The commission and each member thereof may  
254 examine witnesses under oath in all matters coming before them.  
255 If any person shall testify falsely, or make any false affidavit  
256 or oath before the commission, or before any of the commissioners,  
257 or before any officer, to any matter coming before the commission,  
258 he shall be guilty of perjury, and, upon conviction, shall be  
259 punished according to law.

260           **SECTION 13.** Section 77-1-37, Mississippi Code of 1972, is  
261 reenacted as follows:

262           77-1-37. Witnesses summoned to appear before the commission  
263 shall be entitled to the same per diem and mileage as witnesses  
264 attending the circuit court. Witnesses summoned by the commission  
265 on its behalf shall be paid as are other expenditures of the  
266 commission, upon the certificate of the commission showing the  
267 amount to which such witness may be entitled. Witnesses summoned  
268 for any carrier shall be paid by it.

269           **SECTION 14.** Section 77-1-39, Mississippi Code of 1972, is  
270 reenacted as follows:

271           77-1-39. In all cases where the testimony of witnesses is  
272 given orally before the commission any interested party or the  
273 commission shall have the right to have said testimony taken down  
274 and transcribed by a stenographer or court reporter, who is not an  
275 employee of the commission, to be agreed upon by the parties or



276 appointed by the commission. The stenographer or court reporter  
277 so employed shall be duly sworn and his or her certificate that  
278 the transcript of such evidence is correct together with the  
279 official certificate of any one (1) of the commissioners that he  
280 has read the same and that it is in his opinion correct shall  
281 entitle such transcript or a certified copy thereof to be received  
282 in evidence on any appeal or in any court in this state subject  
283 only to any objection that the same is not relevant or material.  
284 The stenographer or court reporter shall be paid in accordance  
285 with the provisions of Section 9-13-33. The commission shall have  
286 the right to require any party demanding an official stenographer  
287 to guarantee or prepay the costs thereof in all proper cases.

288         **SECTION 15.** Section 77-1-41, Mississippi Code of 1972, is  
289 reenacted as follows:

290         77-1-41. All findings of the commission and the  
291 determination of every matter by it shall be made in writing and  
292 placed upon its minutes. Proof thereof shall be made by a copy of  
293 the same duly certified by the secretary under the seal of the  
294 commission. Whenever any matter has been determined by the  
295 commission, in the course of any proceeding before it the fact of  
296 such determination, duly certified, shall be received in all  
297 courts and by every officer in civil cases as prima facie evidence  
298 that such determination was right and proper. The record of the  
299 proceedings of the commission shall be deemed a public record, and



300 shall at all reasonable times be subject to the inspection of the  
301 public.

302         **SECTION 16.** Section 77-1-43, Mississippi Code of 1972, is  
303 reenacted as follows:

304         77-1-43. The commission may apply to the circuit or chancery  
305 court, by proper proceeding, for aid in the enforcement of  
306 obedience to its process, and to compel compliance with Title 77,  
307 Mississippi Code of 1972, and its lawful rules, regulations,  
308 orders, decisions, and determinations. Said courts shall have  
309 jurisdiction to grant aid and relief in such cases, subject to the  
310 right of appeal to the Supreme Court by the party aggrieved. The  
311 commission itself may, by order after notice and hearing,  
312 institute such proceedings or, at the request of the commission by  
313 order after notice and hearing, the Attorney General, or district  
314 attorney in his district, shall institute such proceedings in the  
315 name of the commission.

316         **SECTION 17.** Section 77-1-47, Mississippi Code of 1972, is  
317 reenacted as follows:

318         77-1-47. Appeals from any final finding, order or judgment  
319 of the commission shall be taken and perfected by the filing of a  
320 bond in the sum of Five Hundred Dollars (\$500.00) with two (2)  
321 sureties, or with a surety company qualified to do business in  
322 Mississippi as the surety, conditioned to pay the cost of such  
323 appeal. Said bond shall be approved by the chairman or secretary  
324 of the commission, or by the judge of the court to which such



325 appeal is taken in case the chairman or secretary of the  
326 commission refuses to approve a proper bond tendered to them  
327 within the time limited for taking appeals. The commission may  
328 grant a supersedeas bond on any appeal, in such penalty and with  
329 such surety thereon as it may deem sufficient, and may, during the  
330 pendency of any appeal, at any time, require the increase of any  
331 such supersedeas bond or additional securities thereon. The judge  
332 of the Circuit Court of Hinds County may on petition therefor by  
333 any party entitled to an appeal, presented to him within six (6)  
334 months of the date of the final finding, order, or judgment of the  
335 commission appealed from, award a writ of supersedeas to any such  
336 final finding, order, or judgment of the commission, upon the  
337 filing of a supersedeas bond in an amount to be fixed by said  
338 judge. All appeal bonds for the payment of costs, and all  
339 supersedeas bonds, shall be made payable to the state and may be  
340 enforced in the name of the state by motion or other legal  
341 proceedings or remedy in any circuit court of this state having  
342 jurisdiction of a motion or action on such bond, and the process  
343 and proceedings thereon shall be as provided by law upon bonds of  
344 like character required and taken by any court of this state.  
345 Such circuit court may render and enter like judgments upon such  
346 bonds as may, by law, be rendered and entered upon bonds of like  
347 character, and process of execution shall issue upon such  
348 judgments, and may be levied and executed as provided by law in  
349 other cases.



350           **SECTION 18.** Section 77-1-49, Mississippi Code of 1972, is  
351 reenacted as follows:

352           77-1-49. The commission shall make a report every year to  
353 the Legislature of all its acts and doings for the preceding  
354 fiscal year.

355           **SECTION 19.** Section 77-1-51, Mississippi Code of 1972, is  
356 amended as follows:

357           77-1-51. Sections 77-1-1 through 77-1-49, Mississippi Code  
358 of 1972, which create the Public Service Commission and prescribe  
359 its powers and duties, shall stand repealed as of December  
360 31, \* \* \* 2024.

361           **SECTION 20.** Section 77-1-55, Mississippi Code of 1972, is  
362 amended as follows:

363           77-1-55. (1) The Public Service Commission, with the aid  
364 and the assistance of the Public Utilities Staff, shall have the  
365 power to monitor, investigate, and seek relief in any appropriate  
366 federal forum from all existing or proposed interstate rates,  
367 charges, allocations and classifications, and all rules and  
368 practices in relation thereto promulgated and prescribed by or for  
369 any public utility as defined in Section 77-3-3(d) (i).

370           (2) The Public Service Commission, with the aid and the  
371 assistance of the Public Utilities Staff, may seek relief from any  
372 proposed or final decision, order, regulation, rule or law that  
373 has an impact on any existing or proposed interstate rate, charge,  
374 allocation or classification.



375           (3) For the purpose of this section, the Public Service  
376 Commission and the Executive Director of the Public Utilities  
377 Staff may each enter into professional services contracts with one  
378 or more attorneys or consultants from a competent, qualified and  
379 independent firm as may be required by the commission or the  
380 executive director. Costs associated with the professional  
381 service contracts shall not exceed One Million Five Hundred  
382 Thousand Dollars (\$1,500,000.00) for each agency with respect to  
383 each rate regulated affected utility in any twelve-month period.  
384 The consultants or counsel shall submit periodically, but no less  
385 frequently than once each calendar quarter, to the executive  
386 director or the commission, as applicable, for approval of  
387 payment, itemized bills detailing the work performed. The  
388 executive director or the chairman of the commission, as  
389 applicable, shall requisition the applicable public utility to  
390 make the requisite payments to such consultants. The commission  
391 shall allow the utility to recover both the total costs the  
392 utility incurred under this section and the carrying charges for  
393 those costs through a rate rider established to recover the costs  
394 incurred and carrying charges incurred. Such rider shall include  
395 a true-up provision to ensure actual recovery of costs paid or  
396 otherwise incurred by the utility.

397           (4) This section shall stand repealed from and after July  
398 1, \* \* \* 2024.





399           **SECTION 21.** Section 77-3-93, Mississippi Code of 1972, is  
400 amended as follows:

401           77-3-93. (1) Whenever a utility purchases at wholesale from  
402 a non-utility generator or some non-associated source all or a  
403 portion of its electric capacity and/or energy requirements for a  
404 period in excess of thirty (30) days, such utility shall be  
405 entitled to include as expense items in its revenue requirements,  
406 for the purpose of the calculation of its rates for retail  
407 service, the cost of such capacity and energy so purchased, and in  
408 addition to such cost, an amount representing a return on the  
409 capacity purchased over the period of the test year which is being  
410 used to calculate the revenue requirements. This amount shall be  
411 calculated using the return allowed by the commission as provided  
412 in Section 77-3-95. Notwithstanding the above or any provision of  
413 law to the contrary, for any renewable power purchase entered into  
414 after July 1, 2020, including, but not limited to, solar, wind,  
415 biomass or storage, a utility shall be entitled to incorporate  
416 renewable purchased costs in its rate base.

417           (2) Nothing in Sections 77-3-91 through 77-3-95 shall be  
418 interpreted to allow a return on the energy purchased by a utility  
419 pursuant to its obligation to purchase energy under the federal  
420 Public Utilities Regulatory Policy Act of 1978.

421           **SECTION 22.** Section 77-3-42, Mississippi Code of 1972, is  
422 amended as follows:



423           77-3-42. (1) (a) No public utility, the rates of which are  
424 subject to regulation under the provisions of this chapter, shall  
425 increase its rate or rate schedule in addition to its base rate as  
426 a result of what is commonly referred to as "fuel adjustment  
427 clauses" increase or "fuel adjustment riders" if the application  
428 of such clause or rider shall result in ultimate cost recovery  
429 exceeding the actual cost of fuel burned or consumed in its  
430 generating facilities and the cost of purchased energy.

431           (b) For the purpose of such fuel adjustment clause or  
432 rider, the cost of fuel as used herein shall include only the  
433 actual cost of the fuel and its transportation and may include  
434 such other cost items which are as of the effective date of this  
435 section allowed by the federal energy regulatory commission for  
436 inclusion in wholesale fuel adjustment clauses under its  
437 jurisdiction. In addition thereto fuel cost may include direct  
438 costs associated with burning the fuel at the generating plant,  
439 such as fuel-handling expenses and the cost of fuel sampling and  
440 analysis.

441           (2) (a) The commission is hereby directed to cause a  
442 continuous monitoring by the public utilities staff and a complete  
443 audit, as necessary but not less than annually, of all fuel  
444 purchases for which fuel adjustment clauses or riders have been  
445 placed in effect prior to and after the effective date of this  
446 section, which shall totally verify fuel costs as might be  
447 consumed in generating plants and all purchased energy of such



448 electric utilities in Mississippi with said audit being based upon  
449 generally accepted auditing standards which would accurately  
450 provide detailed information as to the actual monthly utility fuel  
451 costs. Such audit shall be completely independent of any audit  
452 performed on behalf of such utility.

453 (b) The commission is hereby directed to promulgate  
454 rules and regulations, not inconsistent with the laws, (i) to  
455 define allowable costs for inclusion in fuel adjustments, (ii) to  
456 establish guidelines for defining what elements constitute a just  
457 and reasonable fuel adjustment clause or rider, (iii) to establish  
458 guidelines for defining what elements constitute efficient and  
459 economical procurement and use of energy and fuel, and (iv) to  
460 establish general guidelines for making the required review of  
461 fuel adjustment clauses or riders as required by this section.  
462 Such rules and regulations shall be spread upon the minutes of the  
463 commission.

464 (c) Such audits shall include (i) a determination if  
465 fuel and associated costs are properly identified and recorded in  
466 the appropriate uniform system of accounts, (ii) a determination  
467 if purchased energy and associated costs are properly identified,  
468 (iii) an assessment of a utility's practices for economical  
469 purchase and use of fuel and electric energy, and (iv) an  
470 assessment of the relevant contract terms and conditions and any  
471 variations from contract terms.



472 (3) The audits required by this section shall extend to the  
473 fuel acquisition activities of any corporation which is owned in  
474 whole or in part by any such public utility under the jurisdiction  
475 of the commission or owned in whole or in part by a public utility  
476 holding company which is the parent company of any public utility  
477 under the jurisdiction of the commission. Public utilities under  
478 the jurisdiction of this commission, the rates of which are  
479 subject to regulation under the provisions of this chapter, shall  
480 not purchase fuel and/or energy from a company or corporation  
481 which is owned in whole or in part by that public utility or by  
482 the parent company of that public utility unless the selling  
483 company or corporation assents to audits as provided for under  
484 this section.

485 (4) Upon receipt of each audit report, the certified public  
486 accountant of the public utilities staff shall review the report  
487 and furnish the commissioners with a written summary of, and his  
488 comments on, the report. The commission shall meet within one (1)  
489 week after receipt of the accountant's summary, and shall spread  
490 upon the minutes of the commission that it has reviewed said  
491 summary and further shall describe any action which it takes  
492 regarding the audit report or the fact that no action was  
493 required. Any costs included in a fuel adjustment clause or rider  
494 by a public utility under the jurisdiction of the commission found  
495 in violation of this section shall, by order of the commission, be  
496 refunded to the appropriate person or persons. In lieu of



497 payment, the utility may credit the service account with the  
498 amount due under this subsection if the consumer entitled to the  
499 refund is, at that time, a consumer of the utility.

500 (5) Periodically, and not less frequently than annually, the  
501 commission shall review the audit reports, the reports of the  
502 certified public accountant of the public utilities staff, any  
503 reports of the public utilities staff relating to its monitoring  
504 of fuel purchases, and all other relevant information relating to  
505 fuel purchases, fuel adjustment clauses or riders, and purchased  
506 energy for the purpose of determining (a) whether or not the  
507 utility is properly and correctly employing the use of the fuel  
508 adjustment clause or rider applicable to its operations and  
509 billing procedures, (b) whether or not the utility has engaged in  
510 practices in the acquisition of fuel or purchased energy which are  
511 efficient and economical, and (c) whether or not there is reason  
512 to question the practices, contracts, operations or procedures of  
513 the utility in the purchase or acquisition of fuel or purchased  
514 energy relative to efficiency, economy and the public interest.

515 If the commission, after following the procedures described  
516 above, has reasonable cause to believe that inefficient or  
517 uneconomical procurement or use of fuel or purchased energy has  
518 resulted in unreasonable or unjust charges or costs to the  
519 consumers, then the commission shall initiate a procedure for  
520 hearing as provided for in Section 77-3-47 for the purpose of  
521 determining whether or not any of the costs or charges included in



522 the fuel adjustment charges to the consumers were unreasonable or  
523 unjust. If the commission upon hearing shall find that any  
524 charges for the purchase or procurement of fuel or purchased  
525 energy were unreasonable or unjust, then the commission shall  
526 order that such costs or charges be refunded to the appropriate  
527 person or persons together with interest at the same rate  
528 prescribed in Section 77-3-39, Section 77-3-69 and Section  
529 77-3-71. In lieu of payment, the utility may credit the service  
530 account with the amount due under this subsection if the consumer  
531 entitled to the refund is, at that time, a consumer of the  
532 utility.

533 (6) (a) The commission shall maintain at all times complete  
534 and current data relating to sales and purchases of electric  
535 capacity of all utilities, including copies of contracts and  
536 agreements for the purchase of electric capacity, amendments to  
537 such contracts, records of purchases and sales of electric  
538 capacity, and all other relevant information and data deemed  
539 appropriate by the commission for carrying out the provisions of  
540 this section.

541 (b) The commission is hereby directed to review, not  
542 less frequently than annually, the information and data described  
543 above. If, from said review the commission has reasonable cause  
544 to believe that inefficient or uneconomical sales or purchases of  
545 electric capacity by a utility, the rates of which are subject to  
546 regulation by the commission, have resulted in unreasonable or



547 unjust charges or costs to the consumers, then the commission  
548 shall initiate a procedure for hearing as provided for in Section  
549 77-3-47 for the purpose of determining whether or not any of the  
550 costs or charges for sales or purchases of electric capacity  
551 included in the charges to consumers were unreasonable or unjust.  
552 If the commission, upon hearing, shall find that any such charges  
553 for the sale or purchase of electric capacity were unreasonable or  
554 unjust, then the commission shall order that such costs or charges  
555 be refunded to the appropriate person or persons, together with  
556 interest thereon at the same rate prescribed in Section 77-3-39,  
557 Section 77-3-69 and Section 77-3-71. In lieu of payment, the  
558 utility may credit the service account with the amount due under  
559 this subsection if the consumer entitled to the refund is, at that  
560 time, a consumer of the utility.

561 (7) The commission shall provide a full and complete report  
562 of said audits to the Legislature on or before \* \* \* March 15 of  
563 each year. The report shall include certification by the  
564 commission that the information is true and correct as well as  
565 other clarifications of the audit information and any  
566 recommendations for correcting imperfections in statutes relative  
567 to existing fuel or purchased gas adjustments.

568 (8) Nothing in this section shall prohibit the commission  
569 from entering an order in a declared emergency allowing public  
570 utilities under such emergency circumstances to adjust their rates  
571 for a period not to exceed sixty (60) days upon declaration of



572 said emergency. There shall be a full hearing and a complete and  
573 total accounting as to total costs of said commission order to  
574 public utilities customers, with detailed accounting of such  
575 emergency fuel adjustment clause order being made available to the  
576 public.

577 (9) This section shall not apply to a municipality,  
578 including a joint agency organized pursuant to \* \* \* Section  
579 77-5-701 et seq., as amended.

580 **SECTION 23.** Section 77-1-17, Mississippi Code of 1972, which  
581 authorizes the Public Service Commission to employ a competent  
582 rate expert and an assistant rate expert, is hereby repealed.

583 **SECTION 24.** Section 77-1-19, Mississippi Code of 1972, which  
584 authorizes the Public Service Commission to employ personnel to  
585 implement the Motor Carrier Regulatory Law, is hereby repealed.

586 **SECTION 25.** Section 77-1-21, Mississippi Code of 1972, which  
587 authorizes the Department of Transportation to employ an  
588 enforcement officer and inspectors to implement the Motor Carrier  
589 Regulatory Law, is hereby repealed.

590 **SECTION 26.** This act shall take effect and be in force from  
591 and after July 1, 2020.

