

By: Representatives Anderson (122nd), Stamps To: Public Utilities

HOUSE BILL NO. 1060

1 AN ACT TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THE DEFINITION OF THE TERM "PUBLIC UTILITY"; TO AUTHORIZE
3 ELECTRIC VEHICLE CHARGING BY NONUTILITIES; TO BRING FORWARD
4 SECTION 77-3-11, MISSISSIPPI CODE OF 1972, WHICH RELATES TO
5 CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY, FOR PURPOSES OF
6 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 77-3-201, MISSISSIPPI
7 CODE OF 1972, WHICH RELATES TO DEFINITIONS REGARDING FAILURE TO
8 CONSTRUCT FACILITIES NECESSARY TO PROVIDE SERVICE, FOR PURPOSES OF
9 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 77-11-305,
10 MISSISSIPPI CODE OF 1972, WHICH RELATES TO DEFINITIONS REGARDING
11 INTERSTATE GAS PIPELINES, FOR PURPOSES OF POSSIBLE AMENDMENT; AND
12 FOR RELATED PURPOSES.

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

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

16 77-3-3. As used in this chapter:

17 (a) The term "corporation" includes a private or public
18 corporation, a municipality, an association, a joint-stock
19 association or a business trust.

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



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

26 (d) The term "public utility" includes persons and
27 corporations, or their lessees, trustees and receivers now or
28 hereafter owning or operating in this state equipment or
29 facilities for:

30 (i) The generation, manufacture,
31 transmission * * *, distribution, provision, or furnishing of
32 electricity to or for the public, whether an individual person or
33 an entity or a collection of persons or entities, for
34 compensation;

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

45 (iii) The transmission, conveyance or reception of
46 any message over wire, of writing, signs, signals, pictures and
47 sounds of all kinds by or for the public, where such service is
48 offered to the public for compensation, and the furnishing, or the



49 furnishing and maintenance, of equipment or facilities to the
50 public, for compensation, for use as a private communications
51 system or part thereof; however, no person or corporation not
52 otherwise a public utility within the meaning of this chapter
53 shall be deemed such solely because of engaging in this state in
54 the furnishing, for private use as last aforementioned, and
55 moreover, nothing in this chapter shall be construed to apply to
56 television stations, radio stations, community television antenna
57 services, video services, Voice over Internet Protocol services
58 ("VoIP"), any wireless services, including commercial mobile
59 services, Internet Protocol ("IP") - enabled services or broadband
60 services; and

61 (iv) The transmission, distribution, sale or
62 resale of water to the public for compensation, or the collection,
63 transmission, treatment or disposal of sewage, or otherwise
64 operating a sewage disposal service, to or for the public for
65 compensation.

66 The term "public utility" shall not include any person not
67 otherwise a public utility, who provides or furnishes the services
68 or commodity described in this paragraph only to himself, his
69 employees or tenants as an incident of such employee service or
70 tenancy, if such services are not sold or resold to such tenants
71 or employees on a metered or consumption basis other than the
72 submetering authorized under Section 77-3-97.



73 The term "public utility" shall not include any person not
74 otherwise a public utility, who purchases electricity on a metered
75 retail basis from the electric public utility that holds a
76 certificate of public convenience and necessity for the area in
77 which the person is located, and provides or furnishes a portion
78 of that electricity, but not electricity from any other source, to
79 the public for compensation directly and exclusively to charge
80 battery-powered electric vehicles and plug-in hybrid electric
81 vehicles. Any such person described in this paragraph is an
82 end-use customer, whether or not such person receives compensation
83 for battery or vehicle charging.

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

87 (e) The term "rate" means and includes every
88 compensation, charge, fare, toll, customer deposit, rental and
89 classification, or the formula or method by which such may be
90 determined, or any of them, demanded, observed, charged or
91 collected by any public utility for any service, product or
92 commodity described in this section, offered by it to the public,
93 and any rules, regulations, practices or contracts relating to any
94 such compensation, charge, fare, toll, rental or classification;
95 however, the term "rate" shall not include charges for electrical
96 current furnished, delivered or sold by one (1) public utility to
97 another for resale.



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

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

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

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

109 (iii) Any corporation of which fifteen percent
110 (15%) or more of the voting securities is owned or controlled,
111 directly or indirectly, by a public utility;

112 (iv) Any corporation of which twenty-five percent
113 (25%) or more of the voting securities is owned or controlled,
114 directly or indirectly, by any person or corporation that owns or
115 controls, directly or indirectly, twenty-five percent (25%) or
116 more of the voting securities of any public utility or by any
117 person or corporation in any chain of successive ownership of
118 twenty-five percent (25%) of such securities;

119 (v) Any person who is an officer or director of a
120 public utility or of any corporation in any chain of successive
121 ownership of fifteen percent (15%) or more of voting securities of
122 a public utility; or



123 (vi) Any person or corporation that the
124 commission, after notice and hearing, determines actually
125 exercises any substantial influence or control over the policies
126 and actions of a public utility, or over which a public utility
127 exercises such control, or that is under a common control with a
128 public utility, such control being the possession, directly or
129 indirectly, of the power to direct or cause the discretion of the
130 management and policies of another, whether such power is
131 established through ownership of voting securities or by any other
132 direct or indirect means.

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

136 (h) The term "facilities" includes all the plant and
137 equipment of a public utility, used or useful in furnishing public
138 utility service, including all real and personal property without
139 limitation, and any and all means and instrumentalities in any
140 manner owned, operated, leased, licensed, used, controlled,
141 furnished or supplied for, by or in connection with its public
142 utility business.

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



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

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

- 161 (i) Is used to provide access to the Internet, or
162 (ii) Provides computer processing, information
163 storage, information content or protocol conversion, including any
164 service applications or information service provided over such
165 high-speed access service.

166 (l) The term "video services" means video programming
167 services without regard to delivery technology, including Internet
168 Protocol technology ("Internet Protocol television or IPTV") and
169 video programming provided as a part of a service that enables
170 users to access content, information, email or other services



171 offered over the public internet. The term "video programming"
172 means any programming as defined in 47 USCS Section 522(20).

173 (m) The term "Voice over Internet Protocol services" or
174 "VoIP services" means any service that: (i) enables real-time,
175 two-way voice communications that originate from or terminate to
176 the user's location in Internet Protocol or any successor
177 protocol; (ii) uses a broadband connection from the user's
178 location; and (iii) permits users generally to receive calls that
179 originate on the Public Switched Telephone Network and to
180 terminate calls to the Public Switched Telephone Network.

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

183 (o) The term "Internet Protocol-enabled services" or
184 "IP-enabled services" means any service, capability,
185 functionality, or application provided using Internet Protocol, or
186 any successor protocol, that enables an end user to send or
187 receive a communication in Internet Protocol format, or any
188 successor format, regardless of whether the communications is
189 voice, data or video. Nothing contained in this paragraph shall
190 apply to retail services that are tariffed by the commission.

191 (p) "Broadband service provider" means an entity that
192 provides broadband services to others on a wholesale basis or to
193 end-use customers on a retail basis.

194 (q) "Broadband operator" means a broadband service
195 provider that uses the electric delivery system of any public



196 utility of the type as defined in paragraph (d)(i) of this section
197 with the public utility's consent to provide broadband services.

198 (r) "Electric delivery system" means the poles, lines,
199 fiber, cables, broadband system, materials, equipment, easements
200 and other facilities or properties used by any public utility of
201 the type as defined in paragraph (d)(i) of this section to deliver
202 or facilitate the delivery, sale or use of electric energy.

203 **SECTION 2.** Section 77-3-11, Mississippi Code of 1972, is
204 brought forward as follows:

205 77-3-11. (1) No person shall construct, acquire, extend or
206 operate equipment for manufacture, mixing, generating,
207 transmitting or distributing natural or manufactured gas, or mixed
208 gas, or water, for any intrastate sale to or for the public for
209 compensation, or for the operation of a public utility operating a
210 business and equipment or facilities as contemplated by
211 subparagraph (iii) of paragraph (d) of Section 77-3-3, without
212 first having obtained from the commission a certificate that the
213 present or future public convenience and necessity require or will
214 require the operation of such equipment or facility.

215 (2) No person shall construct, acquire, extend or operate
216 equipment for manufacture, generating, transmitting or
217 distributing electricity for any intrastate or interstate sale to
218 or for the public for compensation without first having obtained
219 from the commission a certificate that the present and future
220 public convenience and necessity require or will require the



221 operation of such equipment or facility. Provided, however,
222 nothing herein contained shall be construed to require a joint
223 municipal electric power agency organized in accordance with the
224 provisions of Section 77-5-201 et seq., Mississippi Code of 1972,
225 to obtain any permit, license, certificate or approval from the
226 Mississippi Public Service Commission.

227 (3) No person shall construct, acquire, extend or operate
228 equipment or facilities for collecting, transmitting, treating or
229 disposing of sewage, or otherwise operating an intrastate sewage
230 disposal service, to or for the public for compensation, without
231 first having obtained from the commission a certificate that the
232 present or future public convenience and necessity require or will
233 require the operation of such equipment or facilities.

234 (4) However, nothing herein shall be construed to require
235 any certificate of convenience and necessity from the commission
236 for the production and gathering of natural gas, the sale of
237 natural gas in or within the vicinity of the field where produced,
238 the distribution or sale of liquefied petroleum gas, the sale of
239 natural gas to the ultimate consumer for use as a motor vehicle
240 fuel, or for the facilities and equipment utilized in any such
241 operations.

242 (5) Upon complaints filed by not less than ten percent (10%)
243 of the total subscribers or three thousand five hundred (3,500)
244 subscribers of a public utility, whichever is less, then the



245 commission shall hold a hearing on the adequacy of service as
246 contemplated in Section 77-3-21.

247 **SECTION 3.** Section 77-3-201, Mississippi Code of 1972, is
248 brought forward as follows:

249 77-3-201. As used in this article, the following words and
250 phrases shall include the meanings ascribed by this section unless
251 the context requires a different meaning:

252 (a) "Owner" shall specifically refer to a holder of an
253 interest in real property which is proposed to be served by a
254 public utility as defined in subparagraph (iv) of paragraph (d) of
255 Section 77-3-3. "Owner" shall include both the plural and the
256 singular and any person, firm, corporation, association or
257 combination of such entities.

258 (b) "Public utility" includes any person, firm,
259 corporation or association and any public body, political
260 subdivision, agency or instrumentality thereof owning or owning
261 and operating a public utility service described by subparagraph
262 (iv) of paragraph (d) of Section 77-3-3. However, an incorporated
263 municipality which owns or owns and operates such a described
264 public utility service shall not be subject to the provisions of
265 this article. The term "public utility" also includes the
266 successors and assigns of any such public utility.

267 **SECTION 4.** Section 77-11-305, Mississippi Code of 1972, is
268 brought forward as follows:



269 77-11-305. For the purposes of this article, the following
270 words shall have the meaning ascribed herein unless the context
271 shall otherwise require:

272 (a) "Corporation" shall mean a private or public
273 corporation, municipality, association, a joint stock association
274 or a business trust.

275 (b) "Person" shall include a natural person, a
276 partnership of two (2) or more persons having a joint or common
277 interest, a cooperative, nonprofit, limited dividend, or mutual
278 association, a corporation or any other legal entity.

279 (c) "Municipality" shall mean any incorporated city or
280 town or village.

281 (d) "Intrastate gas pipeline" shall mean the entire
282 pipeline system owned by an entity carrying gas produced wholly
283 within this state, which is not a field gathering system,
284 including the primary gas pipeline and all lateral supply lines
285 and related facilities extending therefrom to the point of sale to
286 any industrial users, a public utility, or a public utility owned
287 or operated by a municipality.

288 (e) "Public utility" as used in this article shall mean
289 any entity as defined by Section 77-3-3(d)(ii), Mississippi Code
290 of 1972.

291 (f) "Commission" shall mean the Mississippi Public
292 Service Commission.



293 **SECTION 5.** This act shall take effect and be in force from
294 and after July 1, 2023.

