

By: Senator(s) Carter

To: Energy

SENATE BILL NO. 2492

1 AN ACT TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF 1972, TO
2 ALLOW FOR ELECTRIC VEHICLE CHARGING BY NON-UTILITIES WHILE
3 MAINTAINING CONSUMER PROTECTIONS; AND FOR RELATED PURPOSES.

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

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

7 77-3-3. As used in this chapter:

8 (a) The term "corporation" includes a private or public
9 corporation, a municipality, an association, a joint-stock
10 association or a business trust.

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

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

17 (d) The term "public utility" includes persons and
18 corporations, or their lessees, trustees and receivers now or



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

21 (i) The provision, furnishing, generation,
22 manufacture, transmission or distribution of electricity to or for
23 the public by any individual person or entity or collection of
24 persons or entities for compensation;

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

35 (iii) The transmission, conveyance or reception of
36 any message over wire, of writing, signs, signals, pictures and
37 sounds of all kinds by or for the public, where such service is
38 offered to the public for compensation, and the furnishing, or the
39 furnishing and maintenance, of equipment or facilities to the
40 public, for compensation, for use as a private communications
41 system or part thereof; however, no person or corporation not
42 otherwise a public utility within the meaning of this chapter
43 shall be deemed such solely because of engaging in this state in



44 the furnishing, for private use as last aforementioned, and
45 moreover, nothing in this chapter shall be construed to apply to
46 television stations, radio stations, community television antenna
47 services, video services, Voice over Internet Protocol services
48 ("VoIP"), any wireless services, including commercial mobile
49 services, Internet Protocol ("IP") - enabled services or broadband
50 services; and

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

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

63 (iv) The term "public utility" shall not include any person
64 not otherwise a public utility, who:

65 1. Purchases electricity on a metered retail basis from
66 the electric public utility holding a certificate of public
67 convenience and necessity in the area where the person is located;
68 and



69 2. Provides or furnishes a portion of that electricity,
70 but not electricity from any other source, to the public for
71 compensation directly and exclusively to charge battery-powered
72 electric vehicles and plug-in hybrid electric vehicles.

73 3. A person meeting the criteria of items 1 and 2 of
74 this subparagraph (iv) shall be considered an end-use customer,
75 whether or not such person receives compensation for battery or
76 vehicle charging.

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

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

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



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

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

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

102 (iii) Any corporation of which fifteen percent
103 (15%) or more of the voting securities is owned or controlled,
104 directly or indirectly, by a public utility;

105 (iv) Any corporation of which twenty-five percent
106 (25%) or more of the voting securities is owned or controlled,
107 directly or indirectly, by any person or corporation that owns or
108 controls, directly or indirectly, twenty-five percent (25%) or
109 more of the voting securities of any public utility or by any
110 person or corporation in any chain of successive ownership of
111 twenty-five percent (25%) of such securities;

112 (v) Any person who is an officer or director of a
113 public utility or of any corporation in any chain of successive
114 ownership of fifteen percent (15%) or more of voting securities of
115 a public utility; or

116 (vi) Any person or corporation that the
117 commission, after notice and hearing, determines actually
118 exercises any substantial influence or control over the policies



119 and actions of a public utility, or over which a public utility
120 exercises such control, or that is under a common control with a
121 public utility, such control being the possession, directly or
122 indirectly, of the power to direct or cause the discretion of the
123 management and policies of another, whether such power is
124 established through ownership of voting securities or by any other
125 direct or indirect means.

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

129 (h) The term "facilities" includes all the plant and
130 equipment of a public utility, used or useful in furnishing public
131 utility service, including all real and personal property without
132 limitation, and any and all means and instrumentalities in any
133 manner owned, operated, leased, licensed, used, controlled,
134 furnished or supplied for, by or in connection with its public
135 utility business.

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

140 (j) The term "lead-lag study" includes an analysis to
141 determine the amount of capital which investors in a public
142 utility, the rates of which are subject to regulation under the
143 provisions of this chapter, must provide to meet the day-to-day



144 operating costs of the public utility prior to the time such costs
145 are recovered from customers, and the measurement of (i) the lag
146 in collecting from the customer the cost of providing service, and
147 (ii) the lag in paying the cost of providing service by the public
148 utility.

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

154 (i) Is used to provide access to the internet, or
155 (ii) Provides computer processing, information
156 storage, information content or protocol conversion, including any
157 service applications or information service provided over such
158 high-speed access service.

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

166 (m) The term "Voice over Internet Protocol services" or
167 "VoIP services" means any service that: (i) enables real-time,
168 two-way voice communications that originate from or terminate to



169 the user's location in Internet Protocol or any successor
170 protocol; (ii) uses a broadband connection from the user's
171 location; and (iii) permits users generally to receive calls that
172 originate on the Public Switched Telephone Network and to
173 terminate calls to the Public Switched Telephone Network.

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

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

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

187 (q) "Broadband operator" means a broadband service
188 provider that uses the electric delivery system of any public
189 utility of the type as defined in paragraph (d)(i) of this section
190 with the public utility's consent to provide broadband services.

191 (r) "Electric delivery system" means the poles, lines,
192 fiber, cables, broadband system, materials, equipment, easements
193 and other facilities or properties used by any public utility of



194 the type as defined in paragraph (d)(i) of this section to deliver
195 or facilitate the delivery, sale or use of electric energy.

196 **SECTION 2.** This act shall take effect and be in force from
197 and after July 1, 2023.

