

**Lost
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

House Bill No. 1060

BY: Committee

**Amend by striking all after the enacting clause and inserting
in lieu thereof the following:**

5 **SECTION 1.** Section 77-3-3, Mississippi Code of 1972, as
6 amended by Senate Bill No. 2433, 2023 Regular Session, is amended
7 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
20 hereafter owning or operating in this state equipment or
21 facilities for:

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

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

36 (iii) The transmission, conveyance or reception of
37 any message over wire, of writing, signs, signals, pictures and
38 sounds of all kinds by or for the public, where such service is



39 offered to the public for compensation, and the furnishing, or the
40 furnishing and maintenance, of equipment or facilities to the
41 public, for compensation, for use as a private communications
42 system or part thereof; however, no person or corporation not
43 otherwise a public utility within the meaning of this chapter
44 shall be deemed such solely because of engaging in this state in
45 the furnishing, for private use as last aforementioned, and
46 moreover, nothing in this chapter shall be construed to apply to
47 television stations, radio stations, community television antenna
48 services, video services, Voice over Internet Protocol services
49 ("VoIP"), any wireless services, including commercial mobile
50 services, Internet Protocol ("IP") - enabled services or broadband
51 services; and

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

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



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

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

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

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

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

82 (e) The term "rate" means and includes every
83 compensation, charge, fare, toll, customer deposit, rental and
84 classification, or the formula or method by which such may be
85 determined, or any of them, demanded, observed, charged or
86 collected by any public utility for any service, product or
87 commodity described in this section, offered by it to the public,
88 and any rules, regulations, practices or contracts relating to any



89 such compensation, charge, fare, toll, rental or classification;
90 however, the term "rate" shall not include charges for electrical
91 current furnished, delivered or sold by one (1) public utility to
92 another for resale.

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

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

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

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

104 (iii) Any corporation of which fifteen percent
105 (15%) or more of the voting securities is owned or controlled,
106 directly or indirectly, by a public utility;

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



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

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

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

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



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

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

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

156 (i) Is used to provide access to the internet, or

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

161 (l) The term "video services" means video programming
162 services without regard to delivery technology, including Internet



163 Protocol technology ("Internet Protocol television or IPTV") and
164 video programming provided as a part of a service that enables
165 users to access content, information, email or other services
166 offered over the public internet. The term "video programming"
167 means any programming as defined in 47 USCS Section 522(20).

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

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

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



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

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

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

198 (s) "Eligible municipality" means any municipality with
199 a population of greater than One Hundred Thousand (100,000)
200 according to the latest decennial census which has been the
201 subject of litigation by the United States Environmental
202 Protection Agency for violations of the Safe Drinking Water Act,
203 42 USC Section 300(f) et seq.

204 (t) "Eligible homeowners association" means any
205 homeowners association created and governed by restrictive
206 covenants, if the subdivision subject to these covenants:

207 (i) Was constructed prior to 1970 outside of
208 municipal boundaries;

209 (ii) Was subsequently annexed by an eligible
210 municipality, irrespective of whether the municipality was an



211 eligible municipality at the time of annexation or subsequently
212 became eligible; and
213 (iii) Is adjacent to which a ground water well
214 system originally designed to supply the subdivision which
215 continues to provide drinking water to a private user is located.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

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

