

By: Representative Newman

To: Public Utilities

HOUSE BILL NO. 1522

1 AN ACT TO PROVIDE THAT THE OWNERS OR OPERATORS OF PUBLIC
 2 UTILITIES PROVIDING SERVICE TO CUSTOMERS THROUGH UNDERGROUND
 3 UTILITIES LINES SHALL BE RESPONSIBLE FOR THE INSTALLATION,
 4 MAINTENANCE AND REPAIR OF UNDERGROUND UTILITY LINES FROM THE POINT
 5 OF TRANSMISSION OR THE ROADWAY NEAREST THE PREMISES SERVED TO THE
 6 METERING DEVICE; TO PROHIBIT SUCH OWNERS OR OPERATORS FROM
 7 SOLICITING OR REQUIRING CUSTOMERS TO ENROLL IN UTILITY LINE
 8 PROTECTION PLANS; TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF
 9 1972, TO DEFINE ADDITIONAL TERMS USED IN THIS ACT; AND FOR RELATED
 10 PURPOSES.

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

12 **SECTION 1.** (1) Each owner or operator of a public utility
 13 providing a service to the premises of a rate paying customer
 14 through an underground facility in connection with underground
 15 utility lines shall be responsible for the installation,
 16 maintenance and repair of underground utility lines from the point
 17 of transmission or the roadway under which the lines are buried
 18 nearest the premises served by those underground utility lines to
 19 the metering device connected to the home or facility for
 20 measuring use of a selected utility, and which serves as the
 21 utility's demarcation point.



22 (2) Owners or operators of public utilities are prohibited
23 from soliciting or requiring rate paying customers to enroll in
24 any utility line protection plan or home service repair plan as a
25 condition of maintaining the service of the utility.

26 **SECTION 2.** Section 77-3-3, Mississippi Code of 1972, is
27 amended as follows:

28 77-3-3. As used in this chapter:

29 (a) The term "corporation" includes a private or public
30 corporation, a municipality, an association, a joint-stock
31 association or a business trust.

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

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

38 (d) The term "public utility" includes persons and
39 corporations, or their lessees, trustees and receivers now or
40 hereafter owning or operating in this state equipment or
41 facilities for:

42 (i) The generation, manufacture, transmission,
43 distribution, provision, or furnishing of electricity to or for
44 the public, whether an individual person or an entity or a
45 collection of persons or entities, for compensation;



46 (ii) The transmission, sale, sale for resale, or
47 distribution of natural, artificial, or mixed natural and
48 artificial gas to the public for compensation by means of
49 transportation, transmission, or distribution facilities and
50 equipment located within this state; however, the term shall not
51 include the production and gathering of natural gas, the sale of
52 natural gas in or within the vicinity of the field where produced,
53 or the distribution or sale of liquefied petroleum gas or the sale
54 to the ultimate consumer of natural gas for use as a motor vehicle
55 fuel;

56 (iii) The transmission, conveyance or reception of
57 any message over wire, of writing, signs, signals, pictures and
58 sounds of all kinds by or for the public, where such service is
59 offered to the public for compensation, and the furnishing, or the
60 furnishing and maintenance, of equipment or facilities to the
61 public, for compensation, for use as a private communications
62 system or part thereof; however, no person or corporation not
63 otherwise a public utility within the meaning of this chapter
64 shall be deemed such solely because of engaging in this state in
65 the furnishing, for private use as last aforementioned, and
66 moreover, nothing in this chapter shall be construed to apply to
67 television stations, radio stations, community television antenna
68 services, video services, Voice over Internet Protocol services
69 ("VoIP"), any wireless services, including commercial mobile



70 services, Internet Protocol ("IP") - enabled services or broadband
71 services; and

72 (iv) The transmission, distribution, sale or
73 resale of water to the public for compensation, or the collection,
74 transmission, treatment or disposal of sewage, or otherwise
75 operating a sewage disposal service, to or for the public for
76 compensation.

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

84 The term "public utility" shall not include any person not
85 otherwise a public utility, who purchases electricity on a metered
86 retail basis from the electric public utility that holds a
87 certificate of public convenience and necessity for the area in
88 which the person is located, and provides or furnishes a portion
89 of that electricity, but not electricity from any other source, to
90 the public for compensation directly and exclusively to charge
91 battery-powered electric vehicles and plug-in hybrid electric
92 vehicles. Any such person described in this paragraph is an
93 end-use customer, whether or not such person receives compensation
94 for battery or vehicle charging.



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

98 (e) The term "rate" means and includes every
99 compensation, charge, fare, toll, customer deposit, rental and
100 classification, or the formula or method by which such may be
101 determined, or any of them, demanded, observed, charged or
102 collected by any public utility for any service, product or
103 commodity described in this section, offered by it to the public,
104 and any rules, regulations, practices or contracts relating to any
105 such compensation, charge, fare, toll, rental or classification;
106 however, the term "rate" shall not include charges for electrical
107 current furnished, delivered or sold by one (1) public utility to
108 another for resale.

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

112 (g) The term "affiliated interest" or "affiliate"
113 includes:

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

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



120 (iii) Any corporation of which fifteen percent
121 (15%) or more of the voting securities is owned or controlled,
122 directly or indirectly, by a public utility;

123 (iv) Any corporation of which twenty-five percent
124 (25%) or more of the voting securities is owned or controlled,
125 directly or indirectly, by any person or corporation that owns or
126 controls, directly or indirectly, twenty-five percent (25%) or
127 more of the voting securities of any public utility or by any
128 person or corporation in any chain of successive ownership of
129 twenty-five percent (25%) of such securities;

130 (v) Any person who is an officer or director of a
131 public utility or of any corporation in any chain of successive
132 ownership of fifteen percent (15%) or more of voting securities of
133 a public utility; or

134 (vi) Any person or corporation that the
135 commission, after notice and hearing, determines actually
136 exercises any substantial influence or control over the policies
137 and actions of a public utility, or over which a public utility
138 exercises such control, or that is under a common control with a
139 public utility, such control being the possession, directly or
140 indirectly, of the power to direct or cause the discretion of the
141 management and policies of another, whether such power is
142 established through ownership of voting securities or by any other
143 direct or indirect means.



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

147 (h) The term "facilities" includes all the plant and
148 equipment of a public utility, used or useful in furnishing public
149 utility service, including all real and personal property without
150 limitation, and any and all means and instrumentalities in any
151 manner owned, operated, leased, licensed, used, controlled,
152 furnished or supplied for, by or in connection with its public
153 utility business.

154 (i) The term "cost of service" includes operating
155 expenses, taxes, depreciation, net revenue and operating revenue
156 requirement at a claimed rate of return from public utility
157 operations.

158 (j) The term "lead-lag study" includes an analysis to
159 determine the amount of capital which investors in a public
160 utility, the rates of which are subject to regulation under the
161 provisions of this chapter, must provide to meet the day-to-day
162 operating costs of the public utility prior to the time such costs
163 are recovered from customers, and the measurement of (i) the lag
164 in collecting from the customer the cost of providing service, and
165 (ii) the lag in paying the cost of providing service by the public
166 utility.

167 (k) The term "broadband services" means any service
168 that consists of or includes a high-speed access capability to



169 transmit at a rate that is not less than two hundred (200)
170 kilobits per second either in the upstream or downstream direction
171 and either:

172 (i) Is used to provide access to the Internet, or
173 (ii) Provides computer processing, information
174 storage, information content or protocol conversion, including any
175 service applications or information service provided over such
176 high-speed access service.

177 (l) The term "video services" means video programming
178 services without regard to delivery technology, including Internet
179 Protocol technology ("Internet Protocol television or IPTV") and
180 video programming provided as a part of a service that enables
181 users to access content, information, email or other services
182 offered over the public internet. The term "video programming"
183 means any programming as defined in 47 USCS Section 522(20).

184 (m) The term "Voice over Internet Protocol services" or
185 "VoIP services" means any service that: (i) enables real-time,
186 two-way voice communications that originate from or terminate to
187 the user's location in Internet Protocol or any successor
188 protocol; (ii) uses a broadband connection from the user's
189 location; and (iii) permits users generally to receive calls that
190 originate on the Public Switched Telephone Network and to
191 terminate calls to the Public Switched Telephone Network.

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



194 (o) The term "Internet Protocol-enabled services" or
195 "IP-enabled services" means any service, capability,
196 functionality, or application provided using Internet Protocol, or
197 any successor protocol, that enables an end user to send or
198 receive a communication in Internet Protocol format, or any
199 successor format, regardless of whether the communications is
200 voice, data or video. Nothing contained in this paragraph shall
201 apply to retail services that are tariffed by the commission.

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

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

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

214 (s) "Eligible municipality" means any municipality with
215 a population of greater than One Hundred Thousand (100,000)
216 according to the latest decennial census which has been the
217 subject of litigation by the United States Environmental



218 Protection Agency for violations of the Safe Drinking Water Act,
219 42 USC Section 300(f) et seq.

220 (t) "Eligible homeowners association" means any
221 homeowners association created and governed by restrictive
222 covenants, if the subdivision subject to these covenants:

223 (i) Was constructed prior to 1970 outside of
224 municipal boundaries;

225 (ii) Was subsequently annexed by an eligible
226 municipality, irrespective of whether the municipality was an
227 eligible municipality at the time of annexation or subsequently
228 became eligible; and

229 (iii) Is adjacent to which a ground water well
230 system originally designed to supply the subdivision which
231 continues to provide drinking water to a private user is located.

232 (u) The term "underground facility" means any
233 underground utility lines and other items which shall be buried or
234 placed below ground or submerged for use in connection with
235 underground utility lines and including, but not be limited to,
236 pipes, sewers, conduits, cables, valves, lines, wires, manholes,
237 vaults, attachments and those portions of poles below the ground.

238 (v) The term "underground utility lines" means
239 underground or buried cable, conduit pipes and related facilities
240 for transportation and delivery of electricity, telecommunications
241 (including fiber optics), water, sewage, gas, mixtures of gases,



242 petroleum, petroleum products or hazardous, flammable, toxic or
243 corrosive liquids.

244 (w) The term "demarcation point" means the point or
245 interconnection between the public utilities provider's terminal
246 equipment and protective apparatus with the customer's premises
247 structure that determines who is responsible for the
248 installation, maintenance and repair of underground utility lines
249 to ensure the reliable delivery of service to the premises.

250 **SECTION 3.** This act shall take effect and be in force from
251 and after July 1, 2024.

