

## House Amendments to Senate Bill No. 2453

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

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

10           **SECTION 1.** Section 77-3-21, Mississippi Code of 1972, is  
11 amended as follows:

12           77-3-21. The commission may, after a hearing had upon due  
13 notice, make such findings as may be supported by proof as to  
14 whether any utility holding a certificate under the provisions of  
15 this article is rendering reasonably adequate service in any area  
16 covered by such utility's certificate. In the event the  
17 commission finds that such utility is not rendering reasonably  
18 adequate service the commission may enter an order specifying in  
19 what particulars such utility has failed to render reasonably  
20 adequate service and order that such failure be corrected within a  
21 reasonable time, such time to be fixed in such order. If the  
22 utility so ordered to correct such a failure fails to comply with  
23 such order of the commission and the commission finds that  
24 cancellation of its certificate would be in the best interest of  
25 the consuming public served by the holder of the certificate, its

26 certificate for the area affected may be revoked and cancelled by  
27 the commission.

28 Prior to any municipality exercising the power of eminent  
29 domain as provided in Section 77-3-17, the commission shall  
30 determine that the certificate of public convenience and necessity  
31 granted to the utility pursuant to Section 77-3-13 for the service  
32 area wherein such facilities are located, shall be cancelled as  
33 provided in this section. Nothing in this paragraph shall be  
34 construed to include service for water and sewage.

35 Notwithstanding Section 77-3-1(1), the commission shall have  
36 jurisdiction to investigate whether any municipality that holds a  
37 certificate to provide service greater than one (1) mile outside  
38 its municipal boundaries is providing reasonably adequate service.  
39 Following a hearing and upon making such a finding, the commission  
40 shall have full authority to enter any order authorized under this  
41 section, including canceling the certificate for the area that  
42 extends beyond the municipalities' boundaries.

43 **SECTION 2.** Section 77-3-22, Mississippi Code of 1972, is  
44 amended as follows:

45 77-3-22. Notwithstanding Section 77-3-1(1), if the  
46 commission determines that any privately owned water and/or sewer  
47 system, or any municipally owned or operated electric utility  
48 providing service greater than one (1) mile outside its municipal  
49 boundaries and within its jurisdiction is unable or unwilling to  
50 adequately serve its customers or has been actually or effectively  
51 abandoned by its owner, or that its management is grossly

52 inefficient, irresponsible or unresponsive to the needs of its  
53 customers, the commission or its designated representative may  
54 petition the Chancery Court of the First Judicial District of  
55 Hinds County or the chancery court of any county wherein the  
56 public utility does business for an order attaching the assets of  
57 the privately owned water and/or sewer system or municipally owned  
58 or operated electric utility and placing such \* \* \* system under  
59 the sole control and responsibility of a receiver. If the court  
60 determines that the petition is proper in all respects and finds,  
61 after a hearing thereon, the allegations contained in the petition  
62 are true, it shall order that the \* \* \* system be placed in  
63 receivership. The court, in its discretion and in consideration  
64 of the recommendation of the commission or its designated  
65 representative, may appoint a receiver who shall be a responsible  
66 individual, partnership, corporation or political subdivision  
67 knowledgeable in water \* \* \*, sewer or electric service affairs  
68 and who shall maintain control and responsibility for the  
69 operation and management of the affairs of such \* \* \* system. The  
70 receiver shall operate the \* \* \* system so as to preserve the  
71 assets of the \* \* \* system and to serve the best interests of its  
72 customers. The receiver shall be compensated from the assets of  
73 the \* \* \* system in an amount to be determined by the court.

74 Control of and responsibility for the \* \* \* system shall  
75 remain in the receiver until the court determines that it is in  
76 the best interests of the customers that the \* \* \* system be  
77 returned to the owner, transferred to another owner or assumed by

78 another \* \* \* operator, system or public service corporation. If  
79 the court, after hearing, determines that control of and  
80 responsibility for the affairs of the \* \* \* system should not be  
81 returned to the legal owner thereof, the receiver may proceed to  
82 liquidate the assets of such \* \* \* system in the manner provided  
83 by law.

84 In any court-initiated receivership for a municipally owned  
85 or operated electric utility providing service greater than one  
86 (1) mile outside its municipal boundaries, the receiver shall  
87 assume the responsibilities and obligations of the municipality  
88 with regard to any existing wholesale power contract.

89 Mississippi laws and Mississippi Rules of Civil Procedure  
90 generally applicable to receivership shall govern receiverships  
91 created under this section.

92 This section is in addition to the provisions of Section  
93 77-3-21.

94 **SECTION 3.** This act shall take effect and be in force from  
95 and after its passage.

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

1 AN ACT TO AMEND SECTION 77-3-21, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE COMMISSION TO CANCEL A MUNICIPALITY'S CERTIFICATE TO  
3 PROVIDE SERVICE GREATER THAN ONE MILE OUTSIDE ITS CORPORATE  
4 BOUNDARIES UPON A FINDING THAT THE MUNICIPALITY DID NOT PROVIDE  
5 REASONABLY ADEQUATE SERVICE; TO AMEND SECTION 77-3-22, MISSISSIPPI  
6 CODE OF 1972, TO INCLUDE MUNICIPALLY OWNED OR OPERATED ELECTRIC  
7 UTILITIES PROVIDING SERVICE GREATER THAN ONE MILE OUTSIDE OF  
8 MUNICIPAL BOUNDARIES; AND FOR RELATED PURPOSES.

HR26\SB2453A.4J

Andrew Ketchings  
Clerk of the House of Representatives