

By: Representatives Deweese, Crawford

To: Public Utilities

HOUSE BILL NO. 943
(As Passed the House)

1 AN ACT TO AMEND SECTION 77-3-21, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE PUBLIC SERVICE COMMISSION TO ADOPT PROCEDURAL RULES
3 TO ARBITRATE AND/OR MEDIATE RATE CONFLICTS BETWEEN PRIVATE WATER
4 ASSOCIATIONS AND RATEPAYERS; TO AUTHORIZE A RURAL WATER
5 ASSOCIATION CUSTOMER TO PROCURE WATER UTILITY SERVICES FROM A
6 LOCAL COUNTY OR MUNICIPAL WATER SYSTEM THAT ACCEPTS THE CUSTOMER
7 WHENEVER A HEALTH DEPARTMENT PLACES ANY RESTRICTION ON THE RURAL
8 WATER ASSOCIATION OR THE ASSOCIATION, ON ITS OWN ADMISSION, IS
9 UNABLE TO SERVE THE CUSTOMER; TO BRING FORWARD SECTIONS 49-17-751,
10 77-1-53, 77-1-55, 77-3-5, 77-3-6, 77-3-13, 77-3-17, 77-3-22,
11 77-3-22.1, 77-3-33, 77-3-35, 77-3-37, 77-3-41, 77-3-43, 77-3-203,
12 77-3-217, 77-3-301, 77-3-303 AND 77-3-307, MISSISSIPPI CODE OF
13 1972, WHICH RELATE TO THE REGULATION OF PUBLIC UTILITIES, FOR
14 PURPOSES OF POSSIBLE AMENDMENT; TO AMEND SECTIONS 77-3-11, 77-3-39
15 AND 77-3-305, MISSISSIPPI CODE OF 1972, TO MAKE MINOR,
16 NONSUBSTANTIVE CHANGES; AND FOR RELATED PURPOSES.

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

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

20 77-3-21. (1) The commission may, after a hearing had upon
21 due notice, make such findings as may be supported by proof as to
22 whether any utility holding a certificate under the provisions of
23 this article is rendering reasonably adequate service in any area
24 covered by such utility's certificate. In the event the
25 commission finds that such utility is not rendering reasonably



adequate service, the commission may enter an order specifying in what particulars such utility has failed to render reasonably adequate service and order that such failure be corrected within a reasonable time, such time to be fixed in such order. If the utility so ordered to correct such a failure fails to comply with such order of the commission and the commission finds that cancellation of its certificate would be in the best interest of the consuming public served by the holder of the certificate, its certificate for the area affected may be revoked and cancelled by the commission.

(2) The commission may propose and adopt procedural rules to arbitrate and/or mediate disputes regarding rates, terms, and conditions of service between any certificated private water utility and the ratepayers in the affected service area. The commission may initiate such arbitration and/or mediation process upon request by either party or when the commission deems it necessary to protect the public interest. Any decision or order by the commission regarding the resolution of rate conflicts shall be binding, unless the commission finds good cause to amend or modify the decision. However, this subsection may not be interpreted or applied in a way that conflicts with any provision of Chapter 3, Title 77, Mississippi Code of 1972.

(3) If a rate dispute exists within any certificated water district between a private water association and its ratepayers, the commission may intervene and mediate or arbitrate in the



51 dispute, upon receiving a request from either party or on its own
52 initiative. The commission shall resolve the dispute in a fair
53 and transparent manner, and may issue an order to ensure that
54 rates charged by the utility are just, reasonable, and in
55 accordance with the principles of fairness to both the utility and
56 its customers. The commission may also propose recommendations to
57 either party for the resolution of any outstanding issues.

58 (4) Prior to any municipality exercising the power of
59 eminent domain as provided in Section 77-3-17, the commission
60 shall determine that the certificate of public convenience and
61 necessity granted to the utility pursuant to Section 77-3-13 for
62 the service area wherein such facilities are located, shall be
63 cancelled as provided in this section. Nothing in this paragraph
64 shall be construed to include service for water and sewage.

65 (5) Notwithstanding Section 77-3-1(1), the commission shall
66 have jurisdiction to investigate whether any municipality that
67 holds a certificate to provide service greater than one (1) mile
68 outside its municipal boundaries is providing reasonably adequate
69 service. Following a hearing and upon making such a finding, the
70 commission shall have full authority to enter any order authorized
71 under this section, including canceling the certificate for the
72 area that extends beyond the municipalities' boundaries.

73 (6) Whenever a health department places any restriction on a
74 rural water association relating to usage or capacity, or upon the
75 admission of the water association that the association is unable



76 to serve a customer or customers, a customer of the rural water
77 association may take such steps as may be necessary to facilitate
78 procuring water utility services from a local county or
79 municipality operating a water system that is able to provide
80 adequate service to that customer. If the county or municipal
81 water system accepts the ratepayer as customer, the rural water
82 association must cooperate in removing the customer from its
83 system and discontinuing service to that customer. Upon request
84 of a rural water association or ratepayer aggrieved by an action
85 of the other party under this subsection, the commission may
86 intervene to ensure a fair and equitable outcome to the parties.
87 Any decision or order by the commission under this subsection
88 shall be final and binding on both parties.

89 **SECTION 2.** Section 49-17-751, Mississippi Code of 1972, is
90 brought forward as follows:

91 49-17-751. (1) Notwithstanding the provisions of Sections
92 77-3-21 and 77-3-23, Mississippi Code of 1972, the certificate of
93 public convenience and necessity held by any municipality, public
94 agency, district, public utility or other person authorized by law
95 to provide water, sewer and wastewater services may be cancelled
96 and its powers, duties and responsibilities transferred to the
97 county authority in the manner provided by this section.

98 (2) Any entity described in subsection (1) of this section
99 desiring to have its certificate of public convenience and
100 necessity cancelled and its powers, duties and responsibilities



transferred to the county authority shall make a determination to that effect on its official minutes if a public entity, or by affidavit if not a public entity, and transmit such determination to the county authority.

(3) Upon receipt of the document evidencing such determination from an entity to transfer its powers, duties and responsibilities to the county authority, the county authority shall, by resolution, declare whether it is willing and able to accept such transfer from the entity.

(4) Upon completion of the requirements of subsections (2) and (3) herein and agreement by both parties to the transfer, the holder of the certificate of public convenience and necessity and the county authority shall jointly petition the Public Service Commission to cancel the certificate of public convenience and necessity. The petition must be accompanied by copies of the official minutes, affidavit or resolution, as the case may be, reflecting the actions of the petitioners. After review of the petition and any other evidence as the Public Service Commission deems necessary, the commission may issue an order cancelling the certificate and transferring to the county authority the powers, duties and responsibilities granted by the certificate, including all assets and debts of the transferor petitioner related to such certificated services, real or personal, or both, if it finds that:



(a) Subsections (2) and (3) of this section have been
complied with; and

(b) Such action is in the public interest.

(5) The county authority and providers of water, sewer,
wastewater and storm water services that are not holders of a
certificate of a public convenience and necessity from the Public
Service Commission may enter into agreements for the provision of
such services, including, but not limited to, the transfer to the
county authority of such provider's powers, duties,
responsibilities, assets and debts.

SECTION 3. Section 77-1-53, Mississippi Code of 1972, is
brought forward as follows:

77-1-53. (1) Whenever the commission, an employee of the
commission or any employee of the public utilities staff has
reason to believe that a willful and knowing violation of any
statute administered by the commission or any regulation or any
order of the commission has occurred, the commission may cause a
written complaint to be served upon the alleged violator or
violators. The complaint shall specify the provisions of such
statute, regulation or order alleged to be violated and the facts
alleged to constitute a violation thereof and shall require that
the alleged violator appear before the commission at a time and
place specified in the notice and answer the charges complained
of. The time of appearance before the commission shall not be
less than twenty (20) days from the date of the service of the



150 complaint, unless the commission finds that the public convenience
151 or necessity requires that such hearing be held at an earlier
152 date.

153 (2) The commission shall afford an opportunity for a fair
154 hearing to the alleged violator or violators at the time and place
155 specified in the complaint. On the basis of the evidence produced
156 at the hearing, the commission shall make findings of fact and
157 conclusions of law and enter its order, which in its opinion will
158 be in the best interests of the consuming public. Failure to
159 appear at any such hearing, without prior authorization to do so
160 from the commission, may result in the commission finding the
161 alleged violator guilty of the charges complained of by default,
162 and at such time an order may be entered, including the assessment
163 of a penalty. The commission shall give written notice of such
164 order to the alleged violator and to such other persons as shall
165 have appeared at the hearing or made written request for notice of
166 the order. The commission may assess such penalties as provided
167 in subsection (3) of this section.

168 (3) Any person found by the commission, pursuant to a
169 hearing or by default as provided in this section, violating any
170 statute administered by the commission, or any regulation or order
171 of the commission in pursuance thereof, shall be subject to a
172 civil penalty of not more than Five Thousand Dollars (\$5,000.00)
173 for each violation, to be assessed and collected by the
174 commission. Each day that a violation continues shall constitute



175 a separate violation. In lieu of, or in addition to, the monetary
176 penalty, the commission, for any violation by a certificate
177 holder, may impose a penalty in accordance with Section 77-3-21,
178 Mississippi Code of 1972, if it finds that the violator is not
179 rendering reasonably adequate service. Appeals from the
180 imposition of the civil penalty may be taken to the Circuit Court
181 of the First Judicial District of Hinds County in the same manner
182 as appeals from orders of the commission constituting judicial
183 findings.

184 (4) All penalties collected by the commission under this
185 section shall be deposited in the Public Service Commission
186 Regulation Fund.

187 (5) No portion of any penalty or costs associated with an
188 administrative or court proceeding which results in the assessment
189 of a penalty against a public utility for violation of any statute
190 administered by the commission, or any regulation or order of the
191 commission shall be considered by the commission in fixing any
192 rates or charges of such public utility.

193 (6) This section shall be in addition to any other law which
194 provides for the imposition of penalties for the violation of any
195 statute administered by the commission or any regulation or order
196 of the commission.

197 (7) From and after July 1, 2016, the expenses of this agency
198 shall be defrayed by appropriation from the State General Fund and



all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

(8) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.

SECTION 4. Section 77-1-55, Mississippi Code of 1972, is brought forward as follows:

77-1-55. (1) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, shall have the power to monitor, investigate, and seek relief in any appropriate federal forum from all existing or proposed interstate rates, charges, allocations and classifications, and all rules and practices in relation thereto promulgated and prescribed by or for any public utility as defined in Section 77-3-3(d) (i).

(2) The Public Service Commission, with the aid and the assistance of the Public Utilities Staff, may seek relief from any proposed or final decision, order, regulation, rule or law that has an impact on any existing or proposed interstate rate, charge, allocation or classification.

(3) For the purpose of this section, the Public Service Commission and the Executive Director of the Public Utilities Staff may each enter into professional services contracts with one or more attorneys or consultants from a competent, qualified and independent firm as may be required by the commission or the



executive director. Costs associated with the professional service contracts shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) for each agency with respect to each rate regulated affected utility in any twelve-month period. The consultants or counsel shall submit periodically, but no less frequently than once each calendar quarter, to the executive director or the commission, as applicable, for approval of payment, itemized bills detailing the work performed. The executive director or the chairman of the commission, as applicable, shall requisition the applicable public utility to make the requisite payments to such consultants. The commission shall allow the utility to recover both the total costs the utility incurred under this section and the carrying charges for those costs through a rate rider established to recover the costs incurred and carrying charges incurred. Such rider shall include a true-up provision to ensure actual recovery of costs paid or otherwise incurred by the utility.

SECTION 5. Section 77-3-5, Mississippi Code of 1972, is brought forward as follows:

77-3-5. Notwithstanding any other provision of law, and subject only to the limitations imposed in this chapter and in accordance with the provisions of this chapter, the Public Service Commission shall have exclusive original jurisdiction over the intrastate business and property of public utilities and, for purposes of clarification of the existing scope of said exclusive



original jurisdiction, such exclusive original jurisdiction extends, but is not limited to: the establishment of retail rates; challenges, including customer complaints, to the amount of a retail rate or customer bill or whether such rate is just and reasonable; and challenges to the validity or accuracy of rates charged by a public utility, or to the accuracy or reliability of information submitted to the Public Service Commission by a public utility or other person in support of or in opposition to a proposed or approved rate, regardless of the legal theory upon which any such challenge is made. However, the commission shall not have jurisdiction over the production and gathering of natural gas or the sale of natural gas in or within the vicinity of the field where produced, or over the facilities and equipment utilized in any such operations, including, but not limited to, such facilities as separators, scrubbers and gasoline plants of all types. Further, the commission shall not have jurisdiction over the governance, management or other internal affairs of entities as described by paragraphs (b) and (c) below. Moreover, the commission shall not have jurisdiction to regulate the rates for the sales and/or distribution:

(a) Of gas, water, electricity or sewage disposal services by municipalities to such persons as said municipalities are authorized by law to serve;

(b) Of gas or electricity by cooperative gas or electric power associations to the members thereof as consumers,



except as provided by Section 77-3-17, where service is rendered in a municipality;

(c) Of water or sewage disposal service by nonprofit corporations or associations where the governing body of such corporation or association is elected by the consumers thereof or appointed by the county board of supervisors; or

(d) Of water by districts organized under the provisions of Chapter 45, Laws of 1966-1967, Extraordinary Session.

SECTION 6. Section 77-3-6, Mississippi Code of 1972, is brought forward as follows:

77-3-6. (1) Any dispute between a municipally owned or operated public utility and a customer of such public utility with regard to billing and/or services in excess of Two Thousand Five Hundred Dollars (\$2,500.00) shall be subject to investigation, review and arbitration by the commission upon petition filed therefor with the commission by such public utility or customer. However, the commission shall not commence any investigation or proceedings pursuant to such petition if at the time of filing the petition suit has been filed in any court of this state or of the United States with regard to the subject matter of the dispute and in which such public utility and customer are parties. Any such petition shall be immediately dismissed if any such suit is filed after filing of the petition with the commission.



298 (2) In any arbitration proceedings commenced under the
299 provisions of this section, the commission may, by order entered
300 on its minutes and delivery of a certified copy thereof to the
301 public utility, direct any municipally owned or operated public
302 utility to provide the commission with copies of all statements,
303 accounts and reports concerning operation of the public utility
304 which the utility is required to provide the governing authorities
305 of the municipality under Section 21-27-17. The commission is
306 further authorized to conduct and shall conduct investigation of
307 and informal hearings in the dispute and may negotiate with the
308 public utility and the customer for the resolution thereof. In
309 every arbitration proceeding under this section the commission
310 shall perform such duties as it deems reasonable and likely to
311 result in settlement of the dispute without commencement of
312 litigation between the public utility and the customer.

313 (3) Participation in any investigation, proceeding,
314 negotiation, or settlement under the provisions of this section
315 shall be voluntary by the public utility and the customer;
316 however, no suit may be commenced in any court of this state by
317 either the public utility or customer based upon the facts giving
318 rise to the dispute for a period of sixty (60) days after a
319 petition is filed with the commission under this section.

320 (4) The provisions prescribed herein for the Public Service
321 Commission to investigate, review and arbitrate disputes between a



municipally owned or operated public utility and a customer of such public utility shall not extend to tort actions.

SECTION 7. Section 77-3-11, Mississippi Code of 1972, is amended as follows:

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

(2) No person shall construct, acquire, extend or operate equipment for manufacture, generating, transmitting or distributing electricity for any intrastate or interstate sale to or for the public for compensation without first having obtained from the commission a certificate that the present and future public convenience and necessity require or will require the operation of such equipment or facility. Provided, however, nothing herein contained shall be construed to require a joint municipal electric power agency organized in accordance with the provisions of Section 77-5-201 et seq., Mississippi Code of 1972,



to obtain any permit, license, certificate or approval from the
Mississippi Public Service Commission.

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

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

(5) Upon complaints filed by not less than ten percent (10%)
of the total subscribers or three thousand five hundred (3,500)
subscribers of a public utility, whichever is less, then the
commission shall hold a hearing on the adequacy of service as
contemplated in Section 77-3-21.

(6) With respect to any facility or contract for a facility
serving a customer under Section 77-3-271, nothing in this section
shall supersede the provisions of Section 77-3-271.



371 **SECTION 8.** Section 77-3-13, Mississippi Code of 1972, is
372 brought forward as follows:

373 77-3-13. (1) The commission shall issue a certificate of
374 convenience and necessity to any person engaged in the
375 construction or operation of such equipment or facility as is
376 mentioned in subsection (1) of Section 77-3-11 on March 29, 1956,
377 for the construction or operation then being conducted, without
378 requiring proof that public convenience and necessity will be
379 served by such construction or operation, and without further
380 proceedings, if application for such certificate is made to the
381 commission within six (6) months after March 29, 1956. Any
382 utility covered by this chapter which has heretofore been under
383 the jurisdiction of the commission shall, upon application within
384 six (6) months of March 29, 1956, be issued a certificate
385 authorizing it to conduct operations and make extensions within
386 any area covered by its service area map or maps on file with the
387 commission on March 29, 1956.

388 (2) The commission shall issue a certificate of convenience
389 and necessity to any person engaged in the construction or
390 operation of a sewage disposal service as mentioned in subsection
391 (2) of Section 77-3-11 on August 9, 1968, for the construction or
392 operation then being conducted, without requiring proof that
393 public convenience and necessity will be served by such
394 construction or operation, and without further proceedings, if
395 application for such certificate is made to the commission within



396 six (6) months after August 9, 1968. Pending the filing of such
397 application and the issuance of a certificate, the continuance of
398 such construction or operation shall be lawful.

399 Except as otherwise specifically provided by subsection (2)
400 of Section 77-3-11 or by this subsection, that portion of the
401 business of a public utility dealing with the operation of a
402 sewage disposal service as provided by subsection (2) of Section
403 77-3-11 shall be subject to provisions of this chapter, in like
404 manner and with like effect as if such business had been included
405 within the definition of a "public utility" in the original
406 enactment of this chapter.

407 (3) In all other cases, except as provided in subsection (9)
408 of this section, the commission shall set the matter for hearing,
409 and shall give reasonable notice of the hearing thereon to all
410 interested persons, as in its judgment may be necessary under its
411 rules and regulations, involving the financial ability and good
412 faith of the applicant, the necessity for additional services and
413 such other matters as the commission deems relevant. The
414 commission may issue a certificate of public convenience and
415 necessity, or refuse to issue the same or issue it for the
416 establishment or construction of a portion only of the
417 contemplated plant, route, line or system, or extension thereof,
418 or for the partial exercise only of such right or privilege, and
419 may attach to the exercise of the rights granted by the
420 certificate such reasonable terms and conditions as to time or



otherwise as, in its judgment, the public convenience, necessity and protection may require, and may forfeit such certificate after issuance for noncompliance with its terms, or provide therein for an ipso facto forfeiture of the same for failure to exercise the rights granted within the time fixed by the certificate. However, nothing in this section shall be construed as requiring such certificate for a municipally owned plant, project or development, route, line or system or extension thereof in areas within one (1) mile of the corporate boundaries which are not certificated to another utility, and nothing in this chapter or other provision of law shall be construed as allowing a municipally owned plant, project or development, route, line or system or extension thereof in areas certificated to another utility. No certificate shall be required for extensions or additions within the corporate limits of a municipality being served by the holder of a certificate of convenience and necessity.

(4) The commission shall, prior to issuing a certificate of public convenience and necessity to a public utility for any new construction, extension or addition to its property, ascertain that all labor, materials, property or services to be rendered for any proposed project will be supplied at reasonable prices. The commission shall, after issuance of a certificate for facilities estimated to cost Five Million Dollars (\$5,000,000.00) or more or estimated to cost an amount equal to one percent (1%) of the rate base allowed by the commission in the utility's last rate case,



446 whichever is greater, assign the public utilities staff to monitor
447 such projects, to inspect periodically construction in progress,
448 and to report to the commission any variances or deviations as
449 found, if any, and to file progress reports thereon with the
450 commission. Such public utility shall file a similar report with
451 the commission at such times and in such form as the commission
452 shall require, including any substantial changes in plans and
453 specifications, cost allocations, construction schedule and funds
454 available to complete the project.

455 (5) The commission may issue a temporary certificate in
456 cases of emergency, to assure maintenance of adequate service or
457 to serve particular customers, without notice or hearing, pending
458 the determination of an application for a certificate, and may by
459 regulation exempt from the requirements of Sections 77-3-11
460 through 77-3-21: (a) temporary acts or operations for which the
461 issuance of a certificate will not be required in the public
462 interest; and (b) extensions or additions of service facilities
463 outside of municipalities under such general rules as will promote
464 the prompt availability of such service to prospective users, and
465 at the same time prevent unnecessary and uneconomic duplication of
466 such facilities as between two (2) or more persons.

467 (6) Prior to the acquisition pursuant to Section 77-3-17,
468 or other provisions of law, by any public agency, authority,
469 district, state or other agency, institution or political
470 subdivision thereof, of any certificate of public convenience and



necessity or portion thereof, service areas or portion thereof, or operating rights or portion thereof, issued or granted by the commission pursuant to the provisions of this section and/or the facilities or other properties and equipment of the utility providing service therein of any regulated utility, as defined in Section 77-3-3(d)(i), (ii) and (iii), the commission shall first determine if such service area, certificate of public convenience and necessity, or operating right, or portions thereof, should be cancelled as provided in Section 77-3-21.

(7) Before the acquisition pursuant to any negotiated purchase agreement entered into before 1987, by any public agency, authority, district, state or other agency, institution or political subdivision thereof, of any certificate of public convenience and necessity or portion thereof, service areas or portion thereof, or operating rights or portion thereof, issued or granted by the commission pursuant to this section and/or the facilities or other properties and equipment of the utility providing service therein of any regulated utility defined in Section 77-3-3(d)(i), the commission first shall determine that such service area, certificate of public convenience and necessity, or operating right, or portions thereof, shall be cancelled as provided in Section 77-3-21.

(8) Notwithstanding any provision of this section to the contrary, the certificate as applied for may be granted without a hearing in uncontested cases; however, the commission may hear any



uncontested case if it determines that the public interest will be served thereby.

(9) With respect to any facility or contract for a facility serving a customer under Section 77-3-271, nothing in this section shall supersede the provisions of Section 77-3-271.

SECTION 9. Section 77-3-17, Mississippi Code of 1972, is brought forward as follows:

77-3-17. In addition to such other rights as it may have to use the streets, alleys and public places of a municipality, a public utility which holds a certificate of public convenience and necessity granted under the provisions of this article covering the geographical area of such municipality, and which (1) is operating under a municipal franchise on March 29, 1956, or (2) shall have previously operated under such a municipal franchise which has expired within five (5) years prior to said date, or (3) which shall hereafter operate under a municipal franchise hereafter granted, may, after the expiration of any such franchise continue to use the streets, alleys and public places therein situated upon condition that (1) such utility shall pay the said municipality compensation therefor at the rate of two percent (2%) of said utility's gross revenue from sales to residential and commercial customers within said municipality, in the case of a utility defined in subparagraphs (i) and (ii) of paragraph (d) of Section 77-3-3 and in the case of a utility defined in subparagraph (iii) of paragraph (d) of said section, the said



utility shall pay two percent (2%) of the monthly service charges in said municipality whether said utility has a franchise to operate therein or not, such payments to be made quarterly of each year, and (2) after the expiration of such franchise the municipality, or any customer of such utility in such municipality, upon appropriate petition, shall be entitled to a hearing as to whether or not the certificate of convenience and necessity may then and thereafter be granted on a permanent basis. Any co-operative which shall operate within any area of a municipality shall likewise pay such municipality two percent (2%) of the co-operative's gross revenue from sales to residential and commercial customers within said municipality.

Any municipality shall have the right to acquire by purchase, negotiation or condemnation the facilities of any utility that is now or may hereafter be located within the corporate limits of such municipality; provided, however, prior to any municipality exercising the right of eminent domain as provided herein, the commission shall determine that the certificate of public convenience and necessity granted to the utility pursuant to Section 77-3-13 for the service area wherein such facilities are located, shall be cancelled as provided in Section 77-3-21.

SECTION 10. Section 77-3-22, Mississippi Code of 1972, is brought forward as follows:

77-3-22. Notwithstanding Section 77-3-1(1), if the commission determines that any privately owned water and/or sewer



546 system, or any municipally owned or operated electric utility
547 providing service greater than one (1) mile outside its municipal
548 boundaries and within its jurisdiction is unable or unwilling to
549 adequately serve its customers or has been actually or effectively
550 abandoned by its owner, or that its management is grossly
551 inefficient, irresponsible or unresponsive to the needs of its
552 customers, the commission or its designated representative may
553 petition the Chancery Court of the First Judicial District of
554 Hinds County or the chancery court of any county wherein the
555 public utility does business for an order attaching the assets of
556 the privately owned water and/or sewer system or municipally owned
557 or operated electric utility and placing such system under the
558 sole control and responsibility of a receiver. If the court
559 determines that the petition is proper in all respects and finds,
560 after a hearing thereon, the allegations contained in the petition
561 are true, it shall order that the system be placed in
562 receivership. The court, in its discretion and in consideration
563 of the recommendation of the commission or its designated
564 representative, may appoint a receiver who shall be a responsible
565 individual, partnership, corporation or political subdivision
566 knowledgeable in water, sewer or electric service affairs and who
567 shall maintain control and responsibility for the operation and
568 management of the affairs of such system. The receiver shall
569 operate the system so as to preserve the assets of the system and
570 to serve the best interests of its customers. The receiver shall



be compensated from the assets of the system in an amount to be determined by the court.

Control of and responsibility for the system shall remain in the receiver until the court determines that it is in the best interests of the customers that the system be returned to the owner, transferred to another owner or assumed by another operator, system or public service corporation. If the court, after hearing, determines that control of and responsibility for the affairs of the system should not be returned to the legal owner thereof, the receiver may proceed to liquidate the assets of such system in the manner provided by law.

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

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

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

SECTION 11. Section 77-3-22.1, Mississippi Code of 1972, is brought forward as follows:

77-3-22.1. In any county having a population of more than thirty-five thousand (35,000) but less than forty thousand



596 (40,000), according to the most recent federal decennial census,
597 any water or sewer system for which a finding is made under
598 Section 49-17-44.1 or Section 77-3-22 by a court of competent
599 jurisdiction that it is appropriate for a receiver to be
600 appointed, the receiver shall give preference to a municipality
601 within the county or to the governing authorities of the county in
602 making any transfer of ownership of the water or sewer system.
603 The term "preference," as used in this section, means that no sale
604 or transfer of the water or sewer system shall be approved by a
605 court of competent jurisdiction or otherwise until two (2) years
606 after the date of appointment of the receiver have elapsed. This
607 right of preference may be waived by the local governmental entity
608 given the preference under this section.

609 **SECTION 12.** Section 77-3-33, Mississippi Code of 1972, is
610 brought forward as follows:

611 77-3-33. (1) No rate made, deposit or service charge
612 demanded or received by any public utility shall exceed that which
613 is just and reasonable. Such public utility, the rates of which
614 are subject to regulation under the provisions of this article,
615 may demand, collect and receive fair, just and reasonable rates
616 for the services rendered or to be rendered by it to any person.
617 Rates prescribed by the commission shall be such as to yield a
618 fair rate of return to the utility furnishing service, upon the
619 reasonable value of the property of the utility used or useful in
620 furnishing service.



621 (2) Such utility shall furnish adequate, efficient and
622 reasonable service, and may establish reasonable rules governing
623 the conduct of its business and the conditions under which it
624 shall be required to render service. The commission may, after
625 hearing upon reasonable notice had, upon its own motion or upon
626 complaint, ascertain and fix just and reasonable standards,
627 regulations and practices of service which are to be furnished,
628 imposed, observed and followed by all public utilities. The
629 commission may require the service, rules and regulations of each
630 public utility to be filed with the commission and subjected to
631 its approval or to such changes therein as the commission
632 reasonably may require. Practices required or sanctioned pursuant
633 to the provisions hereof shall supersede other requirements of
634 law.

635 (3) Such utility may employ in the conduct of its business
636 suitable and reasonable classifications of its service, patrons,
637 rates, deposits and service charges. The classification may, in
638 any proper case, take into account the nature of the use, the
639 quantity and quality used, the time when used, the purpose for
640 which used, and any other reasonable consideration.

641 **SECTION 13.** Section 77-3-35, Mississippi Code of 1972, is
642 brought forward as follows:

643 77-3-35. (1) Subject to the provisions of subsections (2)
644 and (4) of this section, under such reasonable rules and
645 regulations as the commission may prescribe, every public utility,



646 as to the rates which are subject to regulation under the
647 provisions of this article, shall file with the commission, within
648 such time and in such form as the commission may designate,
649 schedules showing such rates and charges established by it and
650 collected and enforced, or to be collected or enforced within the
651 jurisdiction of the commission. The utility shall keep copies of
652 such schedules open to public inspection under such reasonable
653 rules and regulations as the commission may prescribe.

654 No such public utility shall directly or indirectly, by any
655 device whatsoever, or in anywise, charge, demand, collect or
656 receive from any person or corporation for any service rendered or
657 to be rendered by such public utility a greater or less
658 compensation than that prescribed in the schedules of such public
659 utility applicable thereto then filed in the manner provided in
660 this section, and no person or corporation shall receive or accept
661 any service from any such public utility for a compensation
662 greater or less than prescribed in such schedules.

663 Utilities selling commodities or rendering any service to
664 cooperatives, municipalities or other nonprofit organizations,
665 shall, at the order of the commission, file schedules of such
666 rates and charges for information purposes only.

667 The commission may provide, by rules and regulations to be
668 adopted by it, the following:

669 (a) That utilities may contract with a manufacturer
670 that is not a utility for furnishing the services or commodities



671 described in Section 77-3-3(d) (i), (ii) and (iii) for use in
672 manufacturing;

673 (b) That utilities described in Section 77-3-3(d) (i)
674 also may contract with a customer that has a minimum yearly
675 electric consumption of two thousand five hundred (2,500) megawatt
676 hours per year or greater for furnishing the services or
677 commodities described in Section 77-3-3(d) (i); and

678 (c) That utilities described in Section 77-3-3(d) (ii)
679 also may contract with a customer that has a minimum yearly
680 consumption of eight million five hundred thousand (8,500,000)
681 cubic feet of gas per year or greater for furnishing the services
682 or commodities described in Section 77-3-3(d) (ii).

683 These contracts may be entered into without reference to the
684 rates or other conditions which may be established or fixed
685 pursuant to other provisions of this article. Such regulations
686 shall provide that before becoming effective any such contract
687 shall be approved by the commission.

688 (2) (a) The Legislature recognizes that the maintenance of
689 universal telephone service in Mississippi is a continuing goal of
690 the commission and that the public interest requires that the
691 commission be authorized and encouraged to formulate and adopt
692 rules and policies that will permit the commission, in the
693 exercise of its expertise, to regulate and control the provision
694 of telecommunications services to the public in a changing
695 environment where competition and innovation are becoming more



696 commonplace, giving due regard to the interests of consumers, the
697 public, the providers of telecommunications services and the
698 continued availability of good telecommunications service. The
699 commission is authorized to issue more than one (1) competing
700 certificate of public convenience and necessity to provide local
701 exchange telephone service in the same geographical area;
702 provided, that the issuing of any such additional certificates
703 shall not otherwise affect any certificate of public convenience
704 and necessity heretofore issued to any provider of such services.

705 The commission shall adopt all rules and regulations
706 necessary for implementing this subsection (2)(a).

707 The commission may apply standards adopted by the Federal
708 Communications Commission that are generally applicable to
709 companies that are designated and operate as eligible
710 telecommunications carriers, pursuant to 47 USCS Section 214(e).
711 The commission may exercise its authority to ensure that these
712 carriers, including commercial mobile radio service providers that
713 receive federal eligible telecommunications status, comply with
714 those standards, only to the extent permitted by and consistent
715 with applicable federal laws and regulations.

716 The commission retains the authority to issue orders to
717 implement its rules, regulations and the provisions of this
718 chapter, including the authority to grant and modify, impose
719 conditions upon, or revoke a certificate.



720 (b) The commission may, on its own motion or at the
721 request of any interested party, enter an order, after notice and
722 opportunity for hearing, determining and directing that, in the
723 provision of a service or facility by a utility of the type
724 defined in Section 77-3-3(d)(iii), competition or other market
725 forces adequately protect the public interest, or that a service
726 or facility offered by the utility is discretionary, and that the
727 public interest requires that the utility's rates and charges for
728 such service or facility shall not thereafter be subject to
729 regulation by the commission.

730 (c) In making its determination whether the rates and
731 charges for a service or facility shall not be subject to
732 regulation by the commission, the commission may consider
733 individually or collectively:

734 (i) Whether the exercise of commission
735 jurisdiction produces tangible benefits to the utility's customers
736 that exceed those available by reliance on market forces or other
737 factors;

738 (ii) Whether technological changes, competitive
739 forces, discretionary nature of the service or facility, or
740 regulation by other state and federal regulatory bodies render the
741 exercise of jurisdiction by the Mississippi commission unnecessary
742 or wasteful;

743 (iii) Whether the exercise of commission
744 jurisdiction inhibits a regulated utility from competing with



unregulated providers of functionally similar telecommunications services or equipment;

(iv) Whether the existence of competition tends to prevent abuses, unjust discrimination and extortion in the charges of telecommunications utilities for the service or facility in question;

(v) The availability of the service or facility from other persons and corporations; or

(vi) Any other factors that the commission considers relevant to the public interest.

In making the determination as above set forth, the commission may specify the period of time during which the utility's rates and charges for the service or facility shall not thereafter be subject to regulation. Likewise, after notice and opportunity for hearing, the commission may revoke a determination and direction made under this section, when the commission finds that commission regulation of the utility's rates and charges for the service or facility in question is necessary to protect the public interest.

(3) (a) The commission is authorized to consider and adopt alternative methods of regulation proposed by a utility of the type defined in Section 77-3-3(d)(i), (ii) or (iii) to establish rates for the services furnished by such utility that are fair, just and reasonable to the public and that provide fair, just and reasonable compensation to the utility for such services.



770 (b) For purposes of this subsection, the phrase
771 "alternative methods of regulation" means the regulation of
772 utility rates and charges by methods other than the rate base or
773 rate of return method of regulation set forth in other provisions
774 of this article.

775 (4) (a) Notwithstanding any other provisions of this
776 article or any other statute to the contrary, and consistent with
777 the provisions herein, for those public utilities of the type
778 defined in Section 77-3-3(d)(iii) that are subject to the
779 competitive requirements set forth in 47 USCS Section 251 or those
780 public utilities that have waived a suspension granted by the
781 commission of the requirements of 47 USCS Section 251(b) and (c)
782 as authorized by 47 USCS Section 251(f)(2), the Legislature has
783 determined that, in the provision of all services, other than
784 switched access service, competition or other market forces
785 adequately protect the public interest. Therefore, subject to
786 paragraph (d) of this subsection, the commission no longer has
787 jurisdiction over the services, other than the provision of
788 intrastate switched access service, provided by such public
789 utilities.

790 (b) For those public utilities of the type defined in
791 Section 77-3-3(d)(iii) that have been granted a suspension by the
792 commission of the requirements of 47 USCS Section 251(b) and (c)
793 as authorized by 47 USCS Section 251(f)(2), the commission, at the
794 request of such public utility, shall enter an order, after notice



795 and opportunity for hearing, determining that such public
796 utility's provision of service will be subject to the same level
797 of regulation as provided in paragraph (a) of this subsection, but
798 only after the commission determines that such public utility has
799 satisfied one (1) of the following conditions:

800 (i) Has executed interconnection agreements which
801 have been approved by the commission to the extent required under
802 law with two (2) or more local exchange carriers unaffiliated with
803 such public utility;

804 (ii) Offers for resale at wholesale rates,
805 pursuant to 47 USCS Section 251(c)(4)(A) and (B), such public
806 utility's retail telecommunications services provided to
807 subscribers who are not telecommunications carriers;

808 (iii) At least two (2) competitive
809 telecommunications providers unaffiliated with such requesting
810 public utility are offering service to such public utility's
811 subscribers; or

812 (iv) Has experienced a material reduction in
813 access lines or minutes of use in two (2) consecutive years.

814 A waiver of suspension under paragraph (a) of this subsection
815 shall be effective upon written notification to the commission.
816 The initial rate utilized by such public utility shall be the rate
817 for such service in effect at the time of such waiver under this
818 section. The commission, upon request of the public utility, may



819 return such public utility to a form of regulation permitted under
820 this section.

821 (c) Subject to paragraph (d) of this subsection, a
822 public utility of the type defined in Section 77-3-3(d)(iii) which
823 is regulated under the provisions of paragraph (a) of this
824 subsection shall not be subject to any rule, regulation or order
825 promulgated by the commission with regard to retail services. The
826 provisions of Section 77-3-23 shall not apply to such public
827 utility regulated under the provisions of paragraph (a) of this
828 subsection.

829 (d) Nothing in this chapter shall be construed to
830 affect the duties of an incumbent local exchange carrier arising
831 under 47 USCS Sections 251 and 252 and the Federal Communications
832 Commission's regulations implementing these sections, or the
833 commission's authority to approve, arbitrate and enforce
834 interconnection agreements and to resolve disputes pursuant to 47
835 USCS Sections 251 and 252 and the Federal Communications
836 Commission's regulations implementing these sections or any other
837 applicable federal law or regulation. The commission shall
838 exercise its jurisdiction in its role as a dispute resolution
839 forum to hear complaints between certificated carriers, including
840 complaints to prohibit anti-competitive practices and with respect
841 to enforcement or modification of any wholesale self-effectuating
842 enforcement mechanism plan in place as of July 1, 2011, and to
843 issue orders to resolve such complaints, provided that such



844 actions are consistent with federal telecommunications law. The
845 commission shall interpret and apply federal, not state,
846 substantive law. The commission shall adjudicate and enforce such
847 claims in accordance with state procedural law and rules. No
848 claim shall be brought to the commission as to which the FCC has
849 exclusive jurisdiction. All complaints brought between carriers
850 pursuant to this section shall be resolved by final order of the
851 commission within one hundred eighty (180) days of the filing of
852 the complaint.

853 (e) The commission shall retain exclusive original
854 jurisdiction over customer complaints for those services that
855 continue to be regulated. For services no longer regulated, the
856 commission shall have exclusive original jurisdiction to interpret
857 and enforce the terms and conditions of customer service
858 agreements for telecommunications services, but it shall not
859 alter, set aside or refuse to enforce the rates, terms and
860 conditions thereof, either directly or indirectly. No other party
861 shall be allowed to participate in any such complaint proceeding,
862 except for the customer, legal counsel or other representative of
863 the customer, or the public utility involved.

864 (f) A public utility of the type defined in Section
865 77-3-3(d)(iii) which is regulated under the provisions of
866 paragraph (a) of this subsection shall not be required to file
867 financial, service quality or other information with the
868 commission. The calculation of the public utility regulatory tax



869 established in Section 77-3-87 shall be based upon ninety
870 thousandths of one percent (90/1000 of 1%) per year of the gross
871 revenues from the intrastate operations of such public utility
872 which is subject to regulation under the provision of paragraph
873 (a) of this subsection. In addition, such public utility shall
874 only be required to adhere to billing for retail
875 telecommunications services in compliance with the federal truth
876 in billing regulations prescribed by the Federal Communications
877 Commission.

878 (g) (i) In order to transition to the changes
879 effectuated by paragraph (a) of this subsection, the rates, terms
880 and conditions for products and services no longer subject to
881 regulation by the commission which were in effect with a specific
882 term immediately prior to July 1, 2006, shall remain in effect for
883 the duration of the specific term as to customers who subscribed
884 to such products or services prior to July 1, 2006. If no term
885 applied to such products or services at the time such customer
886 subscribed to such products or services, then the rates, terms and
887 conditions governing such products or services shall remain in
888 effect until a written customer service agreement becomes
889 effective as described in subparagraph (ii) of this paragraph (g).

890 (ii) Except as provided in subparagraph (i) of
891 this paragraph (g), the service provider shall offer existing and
892 new customers a written customer service agreement, which in the
893 case of new customers shall be delivered no later than thirty (30)



894 days after the initiation of service. The customer service
895 agreement shall include a provision advising the customer that he
896 has thirty (30) days from receipt in which to elect:

897 1. To terminate service with the service
898 provider by contacting such service provider within the thirty-day
899 time period, in which case the customer shall have the right to
900 pay off the account in the same manner and under the same rates,
901 terms and conditions as set forth in the written customer service
902 agreement provided to the customer, which written customer service
903 agreement shall relate back in its entirety to the date of a new
904 customer's request for service or the date the agreement was sent
905 to an existing customer, as applicable, and shall be in effect
906 until termination through pay off; or

907 2. To use the services of the service
908 provider or to otherwise continue the account with the service
909 provider after the thirty-day time period has elapsed, either of
910 which shall constitute the customer's assent to all the rates,
911 terms and conditions of the written customer service agreement.
912 The customer service agreement shall be deemed received three (3)
913 business days after deposit in the United States mail, first-class
914 delivery.

915 (iii) If any service provider desires to modify in
916 any respect any rates, terms or conditions of a customer service
917 agreement, it shall provide at least thirty (30) days' prior
918 written notice of the modification and the proposed effective date



to the customer. The customer service agreement shall include a provision advising the customer that he has the option:

1. To terminate service with the service provider by contacting such service provider prior to the effective date, in which case the customer shall have the right to pay off the account in the same manner and under the same rates, terms and conditions as then in effect; or

2. To use the services of the service provider or to otherwise continue the account with the service provider on or after the effective date, either of which shall constitute the customer's assent to the modified written customer service agreement. The customer service agreement shall be deemed received three (3) business days after deposit in the United States mail, first-class delivery.

(h) Nothing herein shall change the obligation of those public utilities described in Section 77-3-3(d)(iii) to obtain a certificate of public convenience and necessity pursuant to this chapter.

(5) With respect to any facility or contract for a facility serving a customer under Section 77-3-271, nothing in this section shall supersede the provisions of Section 77-3-271.

SECTION 14. Section 77-3-37, Mississippi Code of 1972, is brought forward as follows:

77-3-37. (1) No public utility shall make any change in any rate which has been duly established under this chapter, except as



944 provided in this chapter. A public utility seeking a change in
945 any rate or rates shall file with the secretary of the commission
946 and the executive director of the public utilities staff a notice
947 of intent to change rates. The commission may promulgate rules
948 and regulations providing for notice to customers of the filing by
949 any public utility for a rate increase. Routine changes in rates
950 and schedules that do not involve any substantial revenue
951 adjustment may go into effect after thirty (30) days' notice to
952 the commission or after such shorter period of notice as the
953 commission, for good cause shown, may allow. In all other cases,
954 the notice of intent shall contain a statement of the changes
955 proposed to be made in the rates then in force, the new level of
956 revenues sought, the reasons for the proposed changes and the date
957 proposed for such changes to become effective, which date shall
958 not be less than thirty (30) days after the date of filing. The
959 proposed changes may be shown by filing new schedules, by plainly
960 indicating the changes upon schedules filed and in force at the
961 time and kept open to public inspection or by such other manner as
962 will clearly indicate the rates to be changed and the rates
963 proposed. All direct testimony, exhibits and other information
964 which any utility will rely upon in support of the proposed
965 changes shall be filed concurrently with the filing of the notice
966 of intent. Such other data or documentation as the commission
967 shall request shall be supplied by such utility.



968 (2) The commission shall establish by rule and regulation a
969 standard requirement list of documentation to be filed with or to
970 be included in every notice of intent. With respect to any notice
971 of intent involving a major change in rates as defined in
972 subsection (8) of this section, the standard requirement list in
973 each case shall include:

974 (a) A copy of its charter or articles of incorporation,
975 if not already on file with the commission;

976 (b) A schedule of the present rates, fares, tolls,
977 charges or rentals in effect, and the changes it is desired to
978 make;

979 (c) A balance sheet of the utility prepared as of the
980 last day of the latest month in which data shall be readily
981 available;

982 (d) An actual operating statement setting forth revenue
983 and expenses by account numbers for the twelve (12) months ending
984 as the date of the balance sheet applicable to the utility filing
985 the notice of intent;

986 (e) A pro forma operating statement in the same form as
987 the actual operating statement showing estimate of revenue and
988 expenses for the twelve-month period beginning with the effective
989 date of the changed rates (i) without giving effect to the changed
990 rates and (ii) giving effect to the changed rates;

991 (f) A pro forma operating statement in the same form as
992 the actual operating statement for the same period giving effect



to the proposed changes in rates and adjusted for known changes in the cost of operations;

(g) A statement showing the number of stations or customers by classes affected by the proposed changes in rates, the actual revenue under the old rates arising from each class and the annual amount of the proposed increase or decrease applicable to each class;

(h) A description of the utility's property, including a statement of the original cost of the property and the cost to the utility;

(i) A statement in full of the reasons why the change in rates is desired so that the commission may clearly see the justification therefor;

(j) The amount and kinds of stock authorized;

(k) The amount and kinds of stock issued and outstanding;

(l) The number and amount of bonds authorized and the number and amount issued;

(m) The rate and amount of dividends paid during the five (5) previous fiscal years, and the amount of capital stock on which dividends were paid each year;

(n) An analysis of surplus covering the period from the close of the last calendar year for which an annual report has been filed with the commission to the date of the balance sheet attached to the notice.



1018 (3) The commission may, by rule and regulation, require the
1019 utility filing a notice of intent to change rates to supplement
1020 the above data with such other information as the commission or
1021 the public utilities staff may reasonably request.

1022 (4) Unless the commission, upon application by a utility and
1023 for good cause shown, shall enter an order waiving one or more of
1024 the following requirements, then whenever a public utility files a
1025 notice of intent wherein an increase in the level of annual
1026 revenues in the amount of at least Fifteen Million Dollars
1027 (\$15,000,000.00) is sought, the standard requirement list of
1028 documentation shall include:

1029 (a) Guidelines or directives as to the public utility's
1030 presentation provided by a controlling affiliate, parent or
1031 holding company;

1032 (b) Marginal cost data;

1033 (c) Alternate rate design;

1034 (d) Conservation effectiveness;

1035 (e) A properly prepared, complete, detailed lead-lag
1036 study for the test year for the total company, Mississippi retail,
1037 other retail jurisdictions and Federal Energy Regulatory
1038 Commission wholesale rates in support of the public utility's
1039 total working capital requirement contained therein, including all
1040 working papers in support thereof;

1041 (f) Direct testimony proposed to be offered at a
1042 hearing.



1043 (5) The notice of intent for major changes in rates as
1044 defined in subsection (8) of this section shall state the test
1045 period adopted by the public utility in support of its proposed
1046 rate changes, which may be a twelve-month period beginning with
1047 the proposed effective date of the rates proposed in the notice.
1048 For the purpose of expediting the regulatory process, all public
1049 utilities shall keep the commission advised of their plans or
1050 needs for future requests for major rate changes.

1051 (6) Within five (5) days after the notice of intent has been
1052 filed, the utility shall serve a copy of the notice of intent
1053 without documentation on all parties of record in its last
1054 proceeding in which a major change in rates was sought, and shall
1055 file a certificate of service with the commission. Thereafter, a
1056 copy of all material filed by the utility shall be furnished by
1057 the utility to those persons as may be provided for by the
1058 commission's rules and regulations.

1059 (7) (a) When the rates in a notice of intent are suspended
1060 by commission order, the commission may issue a scheduling order
1061 which establishes deadlines for submitting data requests,
1062 responding to data requests, conducting prehearing conferences and
1063 hearings and disposing of other matters necessary for the orderly
1064 disposition of the case.

1065 (b) The public utilities staff and all intervenors or
1066 protestants shall file all direct testimony, exhibits and other
1067 information which is to be relied upon regarding the proposed



1068 changes within eighty (80) days from the filing of such notice of
1069 intent. At the time of filing direct testimony, exhibits and
1070 other information, each party filing such documents shall serve
1071 copies of the documentation on all other parties of record and
1072 shall file a certificate of service with the commission.

1073 (8) The commission, for good cause shown, may, except in the
1074 case of major changes, allow changes in rates to take effect at
1075 the end of thirty (30) days from the date of the filing and the
1076 notice of intent, or on the effective date set out in the notice,
1077 without requiring any further proceedings, under such conditions
1078 as it may prescribe. All such changes shall be immediately
1079 indicated by such public utility upon its schedules. "Major
1080 changes" means (a) an increase in rates which would increase the
1081 annual revenues of such public utility more than the greater of
1082 One Hundred Thousand Dollars (\$100,000.00) or two percent (2%),
1083 but shall not include changes in rates allowed to go into effect
1084 by the commission or made by the public utility pursuant to an
1085 order of the commission after hearings held upon notice to the
1086 public, or (b) a change in the rate design which has a significant
1087 impact on a class or classes of ratepayers.

1088 (9) For all major changes in rates and schedules as defined
1089 in subsection (8) of this section, a public utility as defined in
1090 Section 77-3-3(d)(iv) shall provide, not later than twenty (20)
1091 days after filing the notice of intent to change rates, notice of
1092 such proposed change within each affected customer's bill or



1093 invoice and in a newspaper having general circulation in the area
1094 where service is being provided by the public utility. The notice
1095 shall state the date on which the notice of intent was filed with
1096 the commission and shall include a financial impact statement
1097 showing the average amount of increase to customers by class and
1098 usage. The filing public utility shall file a copy of the notice,
1099 along with a certificate with the executive secretary of the
1100 commission, verifying that notice to each of the utility's
1101 affected customers was provided in a timely manner.

1102 (10) With respect to any facility or contract for a facility
1103 serving a customer under Section 77-3-271, nothing in this section
1104 shall supersede the provisions of Section 77-3-271.

1105 **SECTION 15.** Section 77-3-39, Mississippi Code of 1972, is
1106 amended as follows:

1107 77-3-39. (1) Whenever there is filed with the commission by
1108 any public utility any notice of intent to change rates pursuant
1109 to the provisions of Section 77-3-37, the commission, if it so
1110 orders within thirty (30) days after the date such notice of
1111 intent is filed, shall hold a hearing to determine the
1112 reasonableness and lawfulness of such rate change. The commission
1113 shall hold such hearing in every case in which the change in rates
1114 constitutes a major change in rates, as defined in Section
1115 77-3-37(8). An abbreviated proceeding may satisfy this
1116 requirement if the commission's order is supported by the data,
1117 documentation and exhibits on file in the proceeding.



1118 (2) Pending such hearing and the decision thereon, the
1119 commission may, at any time before they become effective, suspend
1120 the operation of such rate or rates, but not for a period longer
1121 than one hundred twenty (120) days beyond the date of the filing
1122 of the notice of intent, except as provided in subsections (15)
1123 and (16) of this section.

1124 (3) Prior to the hearing specifically provided for herein,
1125 the commission shall direct all parties of record to appear before
1126 a hearing examiner or member of the commission staff designated by
1127 it, for a prehearing conference.

1128 (4) Such prehearing conference shall be held at least twenty
1129 (20) days before the date such rate case is set for hearing. The
1130 commission shall establish a procedure for conducting such
1131 prehearing conference, which procedure shall include: (a) setting
1132 forth issues upon which no evidence shall be taken, except upon
1133 offer of proof; (b) designation of specific issues upon which
1134 evidence will be taken; and (c) specific areas of agreement to be
1135 placed on the record, together with the original position of the
1136 utility, the public utilities staff and the interested parties of
1137 record.

1138 (5) At such prehearing conference the commission, or its
1139 designee, and the parties shall consider: (a) the simplification
1140 of the issues; (b) the necessity or desirability of providing
1141 additional information to the commission; (c) the possibility of
1142 obtaining admissions or stipulations that will avoid unnecessary



1143 proof; and (d) such other matters as may aid in the disposition of
1144 the case.

1145 (6) The commission may accept and adopt as its own, the
1146 agreements between any or all interested parties of record, or any
1147 portion thereof, resulting from the prehearing conference and
1148 allow such changes in rates, without requiring any further
1149 proceedings, to become effective immediately.

1150 (7) The commission may enter its order reciting the action
1151 taken at the prehearing conference, the agreements made by the
1152 parties as to any matters considered and the limitation of the
1153 issues for hearing to those not disposed of by admissions or
1154 stipulations of counsel. If practicable, such order shall specify
1155 the facts that appear without substantial controversy, including
1156 the extent to which the rate change is not in controversy, and
1157 shall also direct such further proceedings in the case as are
1158 just.

1159 (8) After the prehearing conference and no later than ten
1160 (10) days prior to the date set by the commission for a hearing:

1161 (a) The public utilities staff shall submit to the
1162 commission all final exhibits, prepared testimony and evidence,
1163 and shall serve copies on all interested parties of record, which
1164 documents shall reflect the agreements made at the prehearing
1165 conference;

1166 (b) The utility shall provide an exhibit indicating
1167 which portion, if any, of the public utilities staff's



1168 presentation and that of other parties it is prepared to accept
1169 and be free of future litigation, showing thereon the effect of
1170 such acceptance on the applicant's request for such changes, and
1171 shall serve copies on all parties of record;

1172 (c) Parties other than the public utilities staff and
1173 the utility shall submit their amended exhibits, prepared direct
1174 testimony and evidence, reflecting the agreements made at the
1175 prehearing conference, and shall serve copies on all parties of
1176 record.

1177 (9) If, after such hearing or abbreviated proceeding, the
1178 commission shall find any such rate or rates to be unjust,
1179 unreasonable or unreasonably discriminatory, or in anywise in
1180 violation of the law, the same shall be set aside, and the
1181 commission shall determine and fix by order such rate or rates as
1182 will yield a fair rate of return to the public utility for
1183 furnishing service to the public and shall make and file its
1184 conclusions and findings of facts supporting such order. A copy
1185 of such order shall be served upon the utility in the manner
1186 provided in this chapter, and the rates fixed by the commission
1187 shall be the legal rates until changed as prescribed by this
1188 chapter.

1189 (10) Notwithstanding anything to the contrary contained in
1190 this chapter, the commission shall hold the hearing, render its
1191 decision and enter its order not more than one hundred twenty
1192 (120) days after the date of the filing of the said notice of



1193 intent. If the commission does not make a final determination
1194 concerning any schedule of rates within a period of one hundred
1195 twenty 120) days after the date of the filing of the notice of
1196 intent, and notwithstanding any order of suspension, except as
1197 provided in subsections (15) and (16) of this section, the public
1198 utility may put such suspended rate or rates into effect as
1199 temporary rates by filing with the commission a bond in a
1200 reasonable amount approved by the commission, with sureties
1201 approved by the commission, conditioned upon the refund, in a
1202 manner and to the parties to be prescribed by order of the
1203 commission, of the amount of the excess, with lawful interest
1204 thereon, if the rate or rates so put into effect are finally
1205 determined to be excessive. There may be substituted for such
1206 bond other arrangements satisfactory to the commission for the
1207 protection of the parties interested. During any such period when
1208 suspended rates are in effect under bond or other arrangement the
1209 commission may, in its discretion, require that the public utility
1210 involved shall keep an accurate account of payments made under the
1211 rate or rates which the public utility has put into operation in
1212 excess of the rate or rates in effect immediately prior thereto.

1213 (11) In addition to the other remedies provided by law,
1214 should there be an appeal of the commission's final order, the
1215 commission shall allow the utility to place such portion of the
1216 schedule of rates that is approved by the commission in such final
1217 order into effect under refunding bond or other arrangements



1218 satisfactory to the commission for the protection of parties
1219 interested.

1220 (12) Should the final judicial determination of an appeal of
1221 a commission's final order rendered pursuant to subsection (9)
1222 hereof result in a schedule of rates less than what the commission
1223 allowed, the commission shall by order require the refund to
1224 customers of any amounts collected by a utility under bond, or
1225 other arrangements, during the appellate process which the courts
1226 found to be in excess of the amounts that should have been allowed
1227 by the commission in its final order. Such refunds shall be made
1228 in full, including interest at the lawful rate and shall be made
1229 within ninety (90) days after such final judicial determination.
1230 In lieu of payment, the utility may credit the service account
1231 with the amount due under this subsection if the consumer entitled
1232 to the refund is, at that time, a consumer of the utility.

1233 (13) Any bond, or other arrangements, approved by the
1234 commission pursuant to subsection (11) of this section shall be in
1235 such amount and with sufficient sureties to insure the prompt
1236 payment of any refunds if the rates so put into effect are finally
1237 determined by the commission or the courts to be excessive.

1238 (14) For purposes of subsections (9), (11) and (12) of this
1239 section, the term "final order" means an order of the commission
1240 promulgated pursuant to subsection (9) of this section or, in the
1241 event of a rehearing conducted pursuant to Section 77-3-65, means



1242 an order of the commission promulgated subsequent to such
1243 rehearing.

1244 (15) No public utility may have more than one (1) major
1245 change in rates in effect under refunding bond at the same time.
1246 When a case is pending before the commission or before any court
1247 which involves a major change in rates which are in effect under
1248 refunding bond, and when the commission shall find that the
1249 pending case involves an issue or issues necessary to be resolved
1250 before the commission can effectively proceed with the hearing,
1251 decision or order, the 120-day period provided for in subsections
1252 (2) and (10) of this section may be enlarged by the commission, in
1253 order to postpone the hearing on the notice of intent, decision or
1254 final order in any subsequent rate case filed by the same utility,
1255 until a final order has been rendered with respect to the prior
1256 pending change in rates.

1257 (16) When a notice of intent to change rates is filed with
1258 the commission, said notice shall be assigned a docket number and
1259 the commission shall examine the filing to determine if it
1260 contains the standard requirement list of documentation set out in
1261 Section 77-3-37(2) and (4), if applicable, and in any rules and
1262 regulations adopted by the commission under Section 77-3-37(2).
1263 Within five (5) days from the date said notice is filed, the
1264 commission shall notify the filing utility in writing of its
1265 failure to include with its notice any items included in such
1266 standard requirement list of documentation. Such notification



1267 shall specify the item or items not filed with said notice. The
1268 filing utility shall have ten (10) days from the date it receives
1269 said notification to file the omitted item or items with the
1270 commission. Provided, however, upon request by the filing utility
1271 made within said ten-day period, the commission shall grant, by
1272 order, such additional time as the filing utility may request, not
1273 to exceed thirty (30) additional days, within which to file the
1274 omitted item or items. If the filing utility fails to file the
1275 omitted item or items within said ten (10) days or within such
1276 extended period of time as the commission by order shall allow,
1277 the commission may refuse to consider any evidence in support of
1278 said item or items in making the commission's final determination
1279 concerning the schedule of rates filed with the notice.
1280 Notwithstanding the 120-day time period imposed on the commission
1281 to render its decision and enter its order under subsections (2)
1282 and (10) of this section and the 80-day time period imposed on the
1283 public utilities staff, intervenors or * * * protestors for the
1284 filing of all direct testimony, exhibits and other information
1285 under Section 77-3-37(7)(b), if the filing utility is granted
1286 additional time within which to file the omitted item or items,
1287 said 120-day and the 80-day time periods shall be extended by the
1288 number of days between the date of the commission's order granting
1289 the extension and the date such omitted items are filed with the
1290 commission, but such extension of said 120-day and 80-day time
1291 periods shall not exceed thirty (30) days.



(17) With respect to any facility or contract for a facility serving a customer under Section 77-3-271, nothing in this section shall supersede the provisions of Section 77-3-271.

SECTION 16. Section 77-3-41, Mississippi Code of 1972, is brought forward as follows:

77-3-41. (1) Whenever the commission, after hearing had on reasonable notice, finds that the existing rates in effect and collected by any public utility are unjust, unreasonable, materially excessive or insufficient or unreasonably discriminatory, or in anywise in violation of any provision of law, the commission shall determine, and fix by order, the just and reasonable rates which will yield a fair rate of return to the utility for furnishing service, which rates will thereafter be observed and in force. Said rates shall thereupon become the legal rates to be charged and paid until changed.

(2) The commission shall have power, when deemed by it necessary to prevent injury to the business or interest of the people or any public utility of this state in case of any emergency, to permit any public utility to alter, amend or suspend temporarily any existing rates, schedules and orders relating to or affecting any public utility or part of any public utility in this state except as provided in Section 77-3-42.

(3) With respect to any facility or contract for a facility serving a customer under Section 77-3-271, nothing in this section shall supersede the provisions of Section 77-3-271.



1317 **SECTION 17.** Section 77-3-43, Mississippi Code of 1972, is
1318 brought forward as follows:

1319 77-3-43. (1) In regulating the rates of any public utility
1320 subject to the provisions of this chapter, the commission shall,
1321 on hearing after reasonable notice, ascertain and fix the rate
1322 base of the property of the public utility in such manner as to be
1323 fair both to the public utility and to the consumer when the same
1324 is relevant or material to the exercise of the jurisdiction of the
1325 commission. The commission shall make readjustments from time to
1326 time, and ascertain the cost of all new construction, extensions
1327 and additions to the property of every public utility. In
1328 arriving at such rate base, the commission shall give due
1329 consideration to: (a) the reasonable original costs of the
1330 property used and useful, or to be used and useful within a
1331 reasonable time after the test period; (b) the portion of the cost
1332 which has been consumed by previous use recovered by depreciation
1333 expense; (c) the allowance for funds used during construction, not
1334 to exceed on borrowed funds the true net interest cost of such
1335 funds, computed according to the actuarial method, and, on the
1336 equity component thereof, a rate of return granted on common
1337 equity in the last rate proceedings before the commission, or if
1338 such rate has not been established within the preceding three (3)
1339 years, then the average rate of return actually earned on equity
1340 during the preceding three (3) years; (d) any other elements



1341 deemed by the commission to be material in determining the rate
1342 base for rate-making purposes.

1343 (2) Valuations of property of such a public utility for
1344 rate-making purposes shall not include property purchased, labor
1345 supplied or services rendered by any firm or corporation owned or
1346 controlled in whole or in part, directly or indirectly, by such
1347 public utility, or which owns or controls in whole or in part,
1348 directly or indirectly, such public utility, unless such firm or
1349 corporation permits the commission to have access to such of the
1350 books and records of such firm or corporation as may be necessary
1351 in the opinion of the commission to enable the commission to
1352 determine whether such labor, materials, property or services
1353 rendered were supplied at reasonable prices. The rate base shall
1354 not include property donated to such utility without any
1355 consideration nor shall operating expenses include depreciation of
1356 such donated property.

1357 (3) Whenever the commission is required in administering
1358 this chapter to find the value of gas in the field where produced,
1359 such value shall be determined as the amount paid therefor by the
1360 public utility in the field pursuant to arm's length contract; and
1361 in the absence of such arm's length contract, the fair market
1362 value of such gas as a commodity in the field.

1363 (4) The commission, in its discretion, when requested by
1364 petition of a rate-jurisdictional public utility providing water
1365 service as defined in Section 77-3-3(d)(iv), may allow to be



1366 recovered in rates the reasonable costs of used and useful
1367 facilities deemed necessary for fire protection. Such facilities
1368 include fire hydrants, transmission and distribution mains,
1369 storage facilities, pumping equipment or other facilities
1370 associated with the provision of adequate water production,
1371 storage and distribution for fire protection.

1372 **SECTION 18.** Section 77-3-203, Mississippi Code of 1972, is
1373 brought forward as follows:

1374 77-3-203. If any public utility, other than a municipality,
1375 shall fail or refuse to construct within its certificated area any
1376 facilities necessary to provide public utility service, or shall
1377 fail or refuse to make written commitment to do so, within a
1378 reasonable time after written request for such service by any
1379 owner of property, which request shall specify with reasonable
1380 particularity the type of service desired, such owner may, in
1381 addition to any other legal or administrative remedy provided by
1382 law and either separately or jointly with any other owner or
1383 owners in the area affected, pursue either of the following
1384 alternatives or a combination thereof:

1385 (a) In the name of such owner or jointly with any other
1386 person, firm or corporation, pursuant to the provisions of Section
1387 77-3-13, apply to the Mississippi Public Service Commission for a
1388 certificate of public convenience and necessity to construct the
1389 appropriate facilities for furnishing such service or services and
1390 to furnish the same within the area affected, and, provided the



1391 commission finds that the cancellation of the outstanding
1392 certificate would be in the best interest of the consuming public
1393 as provided by Section 77-3-21, the fact that a certificate for
1394 the same type service or services may have been previously issued
1395 to the public utility failing or refusing to furnish such service
1396 shall not be prejudicial to such application; or

1397 (b) File with the Mississippi Public Service Commission
1398 a set of proposed plans for construction of such facilities and
1399 connection of the same with the system or systems of the utility
1400 or utilities affected, such plans to conform in all respects to
1401 all reasonable requirements of said commission and any other
1402 public body having lawful authority to establish standards of
1403 construction. The owner shall give twenty (20) days' notice of
1404 such filing to said commission and any other public bodies
1405 aforesaid and to the public utility or utilities holding a
1406 certificate for the area affected. If, after such notice and
1407 opportunity for protest and hearing thereon, the commission shall
1408 approve such plans or any modification thereof as being supported
1409 by present or future public convenience and necessity, the owner
1410 may give notice as hereinafter provided and then proceed to let
1411 contracts for the construction of the same or to construct the
1412 same and, upon proper completion thereof and conveyance or
1413 assignment of such facilities and easements to the utility, the
1414 holder of the certificate for the area and service affected shall



1415 be obliged promptly to connect the same to its systems and provide
1416 such service.

1417 **SECTION 19.** Section 77-3-217, Mississippi Code of 1972, is
1418 brought forward as follows:

1419 77-3-217. The provisions of this article shall be cumulative
1420 to, and not in derogation of, Sections 77-3-21 and 77-3-29.

1421 Any proceedings under the provisions of this article before
1422 the Public Service Commission shall be held and conducted as
1423 provided by Article 1 of this chapter. Appeals shall be available
1424 as a matter of right as provided by Sections 77-3-67 to 77-3-73.

1425 **SECTION 20.** Section 77-3-301, Mississippi Code of 1972, is
1426 brought forward as follows:

1427 77-3-301. Any person, firm, copartnership or corporation
1428 doing business in the State of Mississippi and engaged in the sale
1429 or distribution of electricity, gas or water, whose rates or
1430 tariffs for such service contain any form of so-called "service
1431 charge," shall be required to have fair and reasonable optional
1432 rate schedules and minimum charges that do not contain any form of
1433 such so-called "service charge," so that the consumer may exercise
1434 his option as to the form of rate schedule under which said
1435 consumer will be billed for service used. Such optional rate
1436 schedules shall not require the payment for each unit of
1437 electricity, gas, or water consumed, at a rate in excess of the
1438 rates per unit prescribed for use which were in effect prior to



1439 the establishment of a "service charge" by such person, firm or
1440 corporation affected hereby.

1441 **SECTION 21.** Section 77-3-303, Mississippi Code of 1972, is
1442 brought forward as follows:

1443 77-3-303. All bills rendered to consumers by any public
1444 service utility affected by this article shall be itemized so as
1445 to show in detail the amount of electricity, gas or water consumed
1446 and the rate per unit charged.

1447 **SECTION 22.** Section 77-3-305, Mississippi Code of 1972, is
1448 amended as follows:

1449 77-3-305. Any amount of money collected by any public
1450 utility in * * * willful violation of Section 77-3-303 may be
1451 recovered by an action at law by the consumer from whom it was
1452 collected. In addition thereto, any person, firm, copartnership
1453 or corporation violating the provisions of this article, shall be
1454 guilty of a misdemeanor and upon conviction shall be fined not
1455 more than Fifty Dollars (\$50.00) for each offense.

1456 **SECTION 23.** Section 77-3-307, Mississippi Code of 1972, is
1457 brought forward as follows:

1458 77-3-307. The provisions of this article shall not apply:

1459 (a) To municipally or privately owned plants where a
1460 flat charge only is made, and no meters are in operation;

1461 (b) To any municipally owned and/or operated public
1462 service utility, the net income of which said utility is used



1463 solely for governmental purposes and/or for the discharge of
1464 governmental obligations and not for private gain;

1465 (c) To the Tennessee Valley Authority or any
1466 municipality that purchases gas, water or electric lights and
1467 power from the Tennessee Valley Authority; or

1468 (d) To any state corporation chartered by the State of
1469 Mississippi, or any corporation doing business in the State of
1470 Mississippi, which buys electric current and/or power from the
1471 Tennessee Valley Authority for distribution for domestic and/or
1472 commercial purposes.

1473 **SECTION 24.** This act shall take effect and be in force from
1474 and after July 1, 2025.

