

By: Representatives Miles, Hamilton, Hudson, Markham, Montgomery (15th), Ward To: Public Utilities

HOUSE BILL NO. 800

1 AN ACT TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF 1972, TO
2 INCLUDE INTERNET SERVICE PROVIDERS IN THE DEFINITION OF THE TERM
3 "PUBLIC UTILITY" AS USED TO DESCRIBE THE JURISDICTION OF THE
4 PUBLIC SERVICE COMMISSION; AND FOR RELATED PURPOSES.

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

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

8 77-3-3. As used in this chapter:

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

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

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

18 (d) The term "public utility" includes persons and
19 corporations, or their lessees, trustees and receivers now or
20 hereafter owning or operating in this state equipment or
21 facilities for:

22 (i) The generation, manufacture, transmission or
23 distribution of electricity to or for the public for compensation;

24 (ii) The transmission, sale, sale for resale, or
25 distribution of natural, artificial, or mixed natural and
26 artificial gas to the public for compensation by means of
27 transportation, transmission, or distribution facilities and
28 equipment located within this state; however, "public utility"



29 does not include the production and gathering of natural gas, the
30 sale of natural gas in or within the vicinity of the field where
31 produced, or the distribution or sale of liquefied petroleum gas
32 or the sale to the ultimate consumer of natural gas for use as a
33 motor vehicle fuel;

34 (iii) The transmission, conveyance or reception
35 of, or access to, any message or data over wire,
36 telecommunications lines, radio, or otherwise, which message or
37 data consists of writing, signs, signals, pictures and/or sounds
38 of all kinds by or for the public, where such service is offered
39 to the public for compensation, including services that provide
40 access to the Internet (Internet service providers), and the
41 furnishing, or the furnishing and maintenance, of equipment or
42 facilities to the public, for compensation, for use as a private
43 communications system or part thereof; however, no person or
44 corporation not otherwise a public utility within the meaning of
45 this chapter shall be deemed such solely because of engaging in
46 this state in the furnishing, for private use as last
47 aforementioned, and moreover, nothing in this chapter shall be
48 construed to apply to television stations, radio stations or
49 community television antenna services; and

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

55 The term "public utility" shall not include any person not
56 otherwise a public utility, who furnishes the services or
57 commodity described in this paragraph * * * only to himself, his
58 employees or tenants as an incident of such employee service or
59 tenancy, if such services are not sold or resold to such tenants
60 or employees on a metered or consumption basis.



61 A public utility's business other than of the character
62 defined in subparagraphs (i) to (iv) of this paragraph * * * is
63 not subject to the provisions of this chapter.

64 (e) The term "rate" means and includes every
65 compensation, charge, fare, toll, rental and classification, or
66 the formula or method by which such may be determined, or any of
67 them, demanded, observed, charged or collected by any public
68 utility for any service, product or commodity described in this
69 section, offered by it to the public, and any rules, regulations,
70 practices or contracts relating to any such compensation, charge,
71 fare, toll, rental or classification; however, the term "rate"
72 shall not include charges for electrical current furnished,
73 delivered or sold by one public utility to another for resale.

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

77 (g) The term "affiliated interest" or "affiliate"
78 includes:

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

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

85 (iii) Any corporation of which fifteen percent
86 (15%) or more of the voting securities is owned or controlled,
87 directly or indirectly, by a public utility;

88 (iv) Any corporation twenty-five percent (25%) or
89 more of the voting securities of which is owned or controlled,
90 directly or indirectly, by any person or corporation that owns or
91 controls, directly or indirectly, twenty-five percent (25%) or
92 more of the voting securities of any public utility or by any



93 person or corporation in any chain of successive ownership of
94 twenty-five percent (25%) of such securities;

95 (v) Any person who is an officer or director of a
96 public utility or of any corporation in any chain of successive
97 ownership of fifteen percent (15%) or more of voting securities of
98 a public utility; or

99 (vi) Any person or corporation that the
100 commission, after notice and hearing, determines actually
101 exercises any substantial influence or control over the policies
102 and actions of a public utility, or over which a public utility
103 exercises such control, or that is under a common control with a
104 public utility, such control being the possession, directly or
105 indirectly, of the power to direct or cause the discretion of the
106 management and policies of another, whether such power is
107 established through ownership of voting securities or by any other
108 direct or indirect means.

109 * * * However, the term "affiliated interest" or "affiliate"
110 shall not include a joint agency organized pursuant to Article 15,
111 Chapter 5, Title 77, Mississippi Code of 1972, nor a member
112 municipality thereof.

113 (h) The term "facilities" includes all the plant and
114 equipment of a public utility, used or useful in furnishing public
115 utility service, including all real and personal property without
116 limitation, and any and all means and instrumentalities in any
117 manner owned, operated, leased, licensed, used, controlled,
118 furnished or supplied for, by or in connection with its public
119 utility business.

120 (i) The term "cost of service" includes operating
121 expenses, taxes, depreciation, net revenue and operating revenue
122 requirement at a claimed rate of return from public utility
123 operations.

124 (j) The term "lead-lag study" includes an analysis to
125 determine the amount of capital which investors in a public



126 utility, the rates of which are subject to regulation under the
127 provisions of this chapter, must provide to meet the day-to-day
128 operating costs of the public utility prior to the time such costs
129 are recovered from customers, and the measurement of: (i) the lag
130 in collecting from the customer the cost of providing service; and
131 (ii) the lag in paying the cost of providing service by the public
132 utility.

133 **SECTION 2.** This act shall take effect and be in force from
134 and after July 1, 2002.

