

By: Senator(s) Dawkins

To: Public Utilities

SENATE BILL NO. 3033

1 AN ACT TO AMEND SECTION 77-3-35, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE PUBLIC SERVICE COMMISSION TO INCLUDE THE COST OF  
3 FIRE PROTECTION IN THE RATE STRUCTURE FOR WATER AND SEWER  
4 UTILITIES UPON REQUEST BY THE UTILITY; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 77-3-35, Mississippi Code of 1972, is  
7 amended as follows:

8 77-3-35. (1) Subject to the provisions of subsection (2) of  
9 this section, under such reasonable rules and regulations as the  
10 commission may prescribe, every public utility, the rates of which  
11 are subject to regulation under the provisions of this article,  
12 shall file with the commission, within such time and in such form  
13 as the commission may designate, schedules showing all rates and  
14 charges established by it and collected and enforced, or to be  
15 collected or enforced within the jurisdiction of the commission.  
16 The utility shall keep copies of such schedules open to public  
17 inspection under such reasonable rules and regulations as the  
18 commission may prescribe.

19 No such public utility shall directly or indirectly, by any  
20 device whatsoever, or in anywise, charge, demand, collect or  
21 receive from any person or corporation for any service rendered or  
22 to be rendered by such public utility a greater or less  
23 compensation than that prescribed in the schedules of such public  
24 utility applicable thereto then filed in the manner provided in  
25 this section, and no person or corporation shall receive or accept  
26 any service from any such public utility for a compensation  
27 greater or less than prescribed in such schedules.



28 Utilities of the same type as herein covered, engaged in  
29 rendering interstate service to and from points and places in the  
30 state, shall file with the commission tariffs of rates and charges  
31 of such and rates and charges affecting service to or from points  
32 and places in the state. Also, utilities selling commodities or  
33 rendering any service to cooperatives, municipalities or other  
34 nonprofit organizations, shall, at the order of the commission,  
35 file schedules of such rates and charges for information purposes  
36 only.

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

39 (a) That utilities may contract with a manufacturer  
40 that is not a utility for furnishing the services or commodities  
41 described in Section 77-3-3(d)(i), (ii) and (iii) for use in  
42 manufacturing;

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

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

53 These contracts may be entered into without reference to  
54 the rates or other conditions which may be established or fixed  
55 pursuant to other provisions of this article. Such regulations  
56 shall provide that before becoming effective any such contract  
57 shall be approved by the commission.

58 (2) (a) The Legislature recognizes that the maintenance of  
59 universal telephone service in Mississippi is a continuing goal of  
60 the commission and that the public interest requires that the



61 commission be authorized and encouraged to formulate and adopt  
62 rules and policies that will permit the commission, in the  
63 exercise of its expertise, to regulate and control the provision  
64 of telecommunications services to the public in a changing  
65 environment where competition and innovation are becoming more  
66 commonplace, giving due regard to the interests of consumers, the  
67 public, the providers of telecommunications services and the  
68 continued availability of good telecommunications service. The  
69 commission is authorized to issue more than one competing  
70 certificate of public convenience and necessity to provide local  
71 exchange telephone service in the same geographical area;  
72 provided, that the issuing of any such additional certificates  
73 shall not otherwise affect any certificate of public convenience  
74 and necessity heretofore issued to any provider of such services.

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

77           The commission retains the authority to issue orders to  
78 implement its rules, regulations and the provisions of this  
79 chapter, including the authority to grant and modify, impose  
80 conditions upon, or revoke a certificate.

81           (b) Notwithstanding any provisions of this chapter or  
82 any other statute, the commission may, on its own motion or at the  
83 request of any interested party, enter an order, after notice and  
84 opportunity for hearing, determining and directing that, in the  
85 provision of a service or facility by a utility of the type  
86 defined in Section 77-3-3(d)(iii), competition or other market  
87 forces adequately protect the public interest, or that a service  
88 or facility offered by the utility is discretionary, and that the  
89 public interest requires that the utility's rates and charges for  
90 such service or facility shall not thereafter be subject to  
91 regulation by the commission.

92           (c) In making its determination whether the rates and  
93 charges for a service or facility shall not be subject to



94 regulation by the commission, the commission may consider  
95 individually or collectively:

96 (i) Whether the exercise of commission  
97 jurisdiction produces tangible benefits to the utility's customers  
98 that exceed those available by reliance on market forces or other  
99 factors;

100 (ii) Whether technological changes, competitive  
101 forces, discretionary nature of the service or facility, or  
102 regulation by other state and federal regulatory bodies render the  
103 exercise of jurisdiction by the Mississippi commission unnecessary  
104 or wasteful;

105 (iii) Whether the exercise of commission  
106 jurisdiction inhibits a regulated utility from competing with  
107 unregulated providers of functionally similar telecommunications  
108 services or equipment;

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

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

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

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



126 (3) (a) Notwithstanding any other provisions of this  
127 article or any other statute to the contrary, the commission is  
128 authorized to consider and adopt alternative methods of regulation  
129 proposed by a utility of the type defined in Section 77-3-3(d)(i),  
130 (ii) or (iii) to establish rates for the services furnished by  
131 such utility that are fair, just and reasonable to the public and  
132 that provide fair, just and reasonable compensation to the utility  
133 for such services.

134 (b) For purposes of this subsection, the phrase  
135 "alternative methods of regulation" means the regulation of  
136 utility rates and charges by methods other than the rate base or  
137 rate of return method of regulation set forth in other provisions  
138 of this article.

139 (4) With regard to utilities described in Section  
140 77-3-3(d)(iv), the commission is authorized to include the cost of  
141 fire protection in the rate structure when requested by the  
142 utility.

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

