

By: Senator(s) Dawkins, Williamson

To: Public Utilities

SENATE BILL NO. 2935

1 AN ACT TO AMEND SECTION 77-3-3, MISSISSIPPI CODE OF 1972, TO  
2 INCLUDE CABLE TELEVISION SYSTEMS IN THE DEFINITION OF PUBLIC  
3 UTILITIES AS USED TO DESCRIBE THE JURISDICTION OF THE PUBLIC  
4 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, the term shall not

29 include the production and gathering of natural gas, the sale of  
30 natural gas in or within the vicinity of the field where produced,  
31 or the distribution or sale of liquefied petroleum gas or the sale  
32 to the ultimate consumer of natural gas for use as a motor vehicle  
33 fuel;

34 (iii) The transmission, conveyance or reception of  
35 any message over a cable system, wire, \* \* \* by radio, or  
36 otherwise, of writing, signs, signals, pictures and sounds of all  
37 kinds by or for the public, including the transmission to multiple  
38 subscribers of video programming or other programming services and  
39 subscriber interaction, if any, which is required for the  
40 selection of video programming or other programming services,  
41 where such service is offered to the public for compensation, and  
42 the furnishing, or the furnishing and maintenance, of equipment or  
43 facilities to the public, for compensation, for use as a private  
44 communications system or part thereof; however, \* \* \* nothing in  
45 this chapter shall be construed to apply to television stations,  
46 radio stations, \* \* \* community television antenna services or  
47 cable systems that serve only to retransmit the television signals  
48 of one or more television broadcast stations or serve only  
49 subscribers in one or more multiple unit dwellings under common  
50 ownership, control or management without using any public  
51 right-of-way; and

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

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

62 or employees on a metered or consumption basis other than the  
63 submetering authorized under Section 77-3-97.

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

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

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

80 (g) The term "affiliated interest" or "affiliate"  
81 includes:

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

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

88 (iii) Any corporation of which fifteen percent  
89 (15%) or more of the voting securities is owned or controlled,  
90 directly or indirectly, by a public utility;

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

95 more of the voting securities of any public utility or by any  
96 person or corporation in any chain of successive ownership of  
97 twenty-five percent (25%) of such securities;

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

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

112 However, the term "affiliated interest" or "affiliate" shall  
113 not include a joint agency organized pursuant to Sections 77-5-701  
114 et seq. nor a member municipality thereof.

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

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

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

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

135         **SECTION 2.** This act shall take effect and be in force from  
136 and after July 1, 2004.