

By: Representative Beckett

To: Public Utilities

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 894

1 AN ACT TO MITIGATE THE INITIAL RATE IMPACTS ON CUSTOMERS OF
2 CERTAIN NEWLY CONSTRUCTED ELECTRIC GENERATING FACILITIES BY
3 AUTHORIZING THE PUBLIC SERVICE COMMISSION TO ESTABLISH A
4 MULTI-YEAR NEW GENERATION RATE RECOVERY PLAN; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** The following shall be codified as Section
8 77-3-106, Mississippi Code of 1972:

9 77-3-106. (1) As used in this section:

10 (a) The term "rate mitigation plan" means a rate plan
11 designed to mitigate the initial rate impacts of collecting the
12 revenue requirements associated with the inclusion of a newly
13 constructed generating facility in rate base and rates by
14 establishing a plan for collecting or phasing in the revenue
15 requirements over a period that is not to exceed ten (10) years.

16 (b) The term "generating facility" shall have the same
17 meaning as defined in Section 77-3-103.

18 (2) A rate mitigation plan may be approved by the commission
19 in connection with a generating facility that is owned, in whole



20 or in part, by an electric public utility whose rates are subject
21 to the jurisdiction of the commission in accordance with the
22 procedures contained in this section. The rate mitigation plan:

23 (a) Shall be proposed by an electric public utility
24 through a separate petition or by an electric public utility in
25 connection with any other rate proceeding pending before the
26 commission related to a generating facility;

27 (b) Shall be implemented through rate schedules, rate
28 riders, methods, formulas or other mechanisms, which have
29 previously been proposed by the electric public utility or, if
30 amended, are subsequently agreed to by the electric public
31 utility;

32 (c) Shall not be requested or filed earlier than twelve
33 (12) months prior to the beginning of the calendar year in which a
34 generating facility is scheduled to be placed into commercial
35 operation; and

36 (d) Shall be limited in scope to only the investment,
37 expenses, revenues and rates of return associated with the
38 construction, ownership and operation of a generating facility and
39 all related assets, facilities and equipment incurred or to be
40 incurred through the end of the rate mitigation period. The
41 commission's review of a rate mitigation plan shall be conducted
42 and all existing and applicable statutes and rules related thereto
43 shall be enforced in a manner consistent with the limitations
44 prescribed in this subsection (2)(d).



45 (3) Subject to the limitation contained in subsection (2)
46 (d) above any filing by an electric public utility requesting a
47 rate mitigation plan shall:

48 (a) Present a rate mitigation plan by providing the
49 information required in Section 77-3-37(2) (e), (f) and (g) for
50 each year of the proposed rate mitigation period; and

51 (b) Present a conventional rate recovery proposal
52 without a rate mitigation plan by complying with Section
53 77-3-37(2).

54 (4) Subject to the limitation contained in subsection (2)
55 (d) of this section, the commission's consideration of any rate
56 mitigation plan shall be governed by all of the provisions of
57 Article 1 and 2 of this Chapter 3, Title 77, except Sections
58 77-3-37(4) and 77-3-105(2) (c) and any rules promulgated and
59 related thereto.

60 (5) In approving any rate mitigation plan, the commission:

61 (a) Shall include a finding establishing the initially
62 approved rate base;

63 (b) Shall consider and evaluate the revenues, costs,
64 rate base and returns applicable over the entire rate mitigation
65 period; and

66 (c) Shall, for the rate mitigation period, allow
67 recovery of a return, not to exceed the weighted cost of capital
68 rate of return approved in the rate mitigation plan, on the
69 balance of any unrecovered or deferred amounts accrued pursuant to



70 the rate mitigation plan for the account of either the electric
71 public utility or the electric public utility's retail customers
72 during the rate mitigation period.

73 (6) Following the implementation of any rate mitigation
74 approved by the commission, revenue adjustments made during and in
75 accordance with the rate mitigation plan shall not constitute
76 changes in rates pursuant to Sections 77-3-37 or 77-3-39. The
77 revenues, investment, expenses and rate of return applicable to a
78 commission-approved rate mitigation plan shall, during the rate
79 mitigation period, be excluded from the calculation of rates for
80 the subject electric public utility in any other rate proceeding
81 before the commission.

82 (7) The authority granted to the commission herein to
83 implement a rate mitigation plan shall not be deemed to be in
84 conflict of the requirements of Sections 77-3-33 and 77-3-43.

85 (8) Notwithstanding Section 77-3-41, Section 77-3-61, or any
86 other provision of Title 77, any order implementing a rate
87 mitigation plan under this article shall be irrevocable once there
88 is a final order for which the time for all appeals has expired.
89 A final order implementing a rate mitigation plan shall, during
90 the rate mitigation period, be binding in all future regulatory
91 proceedings affecting such generating facility or rates or charges
92 associated with such generating facility. Neither the commission
93 nor any other governmental authority established by Mississippi
94 law may amend, modify, or terminate the rate mitigation plan by



95 any subsequent action or reduce, impair, postpone, terminate or
96 otherwise adjust the charges established by the rate mitigation
97 plan order until after the rate mitigation period has elapsed and
98 such rate mitigation plan may then only be revised in accordance
99 with Article 1 of this Chapter 3, Title 77. Notwithstanding
100 anything contained herein to the contrary, nothing in this section
101 shall diminish, or be construed to diminish, the power and
102 authority of the commission in the event the generating facility
103 is abandoned, cancelled or otherwise fails to become used and
104 useful in the provision of electric service.

105 (9) The rates and charges in effect at the end of the rate
106 mitigation period shall remain in effect after the rate mitigation
107 plan unless and until modified in accordance with Article 1 of
108 this Chapter 3, Title 77.

109 **SECTION 2.** The provisions of this act shall be deemed to be
110 full and complete authority for the exercise of the powers therein
111 granted.

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

