

By: Senator(s) Suber

To: Local and Private

SENATE BILL NO. 3009

1 AN ACT TO AUTHORIZE THE GOVERNING AUTHORITIES OF THE CITY OF
2 OKOLONA TO UTILIZE ITS ELECTRIC POWER DELIVERY SYSTEM IN
3 CHICKASAW, MONROE, LEE AND CLAY COUNTIES, MISSISSIPPI, TO PROVIDE
4 BROADBAND SERVICE TO ITS CUSTOMERS; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** As used in this act, the following terms shall
7 have the following meanings unless the context clearly indicates
8 otherwise:

9 (a) "Broadband affiliate" or "affiliate" means any
10 entity that is (i) wholly or partially owned by the City of
11 Okolona, and (ii) formed to own or operate a broadband system or
12 provide broadband services.

13 (b) "Broadband service provider" means an entity that
14 provides broadband services to others on a wholesale basis or to
15 end-use customers on a retail basis.

16 (c) "Broadband operator" means a broadband service
17 provider that owns or operates a broadband system on the City of
18 Okolona's electric delivery system with the city's consent.



19 (d) "Broadband services" means any service that
20 consists of or includes the provision of or connectivity to a
21 high-speed, high-capacity transmission medium that can carry
22 signals from or to multiple sources and that either: (i) is used
23 to provide access to the internet; or (ii) provides computer
24 processing, information storage, information content or protocol
25 conversion, including any service applications or information
26 service provided over such high-speed access service. As used
27 herein, "broadband services" also includes video services, Voice
28 over Internet Protocol services, any wireless services, and
29 internet protocol-enabled services.

30 (e) "Broadband system" means the fiber, cables,
31 materials, equipment and other facilities that are used or useful
32 for the provision of broadband services.

33 (f) "Electric delivery system" means the poles, lines,
34 fiber, cables, broadband system, materials, equipment, easements
35 and other facilities or properties used by the City of Okolona to
36 deliver or facilitate the delivery, sale or use of electric
37 energy.

38 (g) "Internet protocol-enabled services" means any
39 service, capability, functionality or application provided using
40 internet protocol, or any successor protocol, that enables an end
41 user to send or receive a communication in internet protocol
42 format, or any successor format, regardless of whether the
43 communication is voice, data or video.



44 (h) "Landowner" includes any person or entity holding
45 an interest in real property.

46 (i) "Video services" means video programming services
47 without regard to delivery technology, including internet protocol
48 technology ("Internet Protocol television" or "IPTV") and video
49 programming provided as a part of a service that enables users to
50 access content, information, email or other services offered over
51 the public internet. The term "video programming" means any
52 programming generally considered comparable to programming
53 provided by a television broadcast station.

54 (j) "Voice over Internet Protocol services" means any
55 service that: (i) enables real-time, two-way voice communications
56 originating from or terminating at the user's location in internet
57 protocol or any successor protocol; (ii) uses a broadband
58 connection from the user's location; and (iii) permits users
59 generally to receive calls originating on the public switched
60 telephone network and to terminate calls to the public switched
61 telephone network.

62 **SECTION 2.** (1) The City of Okolona is authorized to
63 establish, acquire and wholly or partially own one or more
64 broadband affiliates.

65 (2) The City of Okolona may allow its broadband affiliate(s)
66 or an unaffiliated broadband operator to own, lease, construct,
67 maintain and operate a broadband system on the City of Okolona's
68 electric delivery system and to provide broadband services to the



69 public utilizing the City of Okolona's broadband system or other
70 parts of its electric delivery system.

71 (3) The City of Okolona may determine, in its sole
72 discretion, which broadband operators, if any, may have access to
73 broadband capacity on the City of Okolona's broadband system; and
74 it shall be lawful for the City of Okolona to provide an affiliate
75 or other broadband operator exclusive access to broadband capacity
76 on the City of Okolona's broadband system.

77 (4) (a) The City of Okolona may charge an affiliate or an
78 unaffiliated broadband operator for the construction,
79 installation, operation, use and maintenance of those parts of its
80 electric delivery system that are used or may be reserved for use
81 by the affiliate or unaffiliated broadband operator for the
82 provision of broadband services. Any lease of facilities by the
83 City of Okolona to a broadband affiliate that includes the use of
84 the City of Okolona's poles shall specifically include pole
85 attachment fees to be paid by the broadband affiliate to the City
86 of Okolona equal to pole attachment fees charged by the City of
87 Okolona to like unaffiliated, private entities.

88 (b) The City of Okolona shall not:

89 (i) Charge an affiliate under this act an amount
90 less than the electric cooperative charges an unaffiliated entity
91 for the same item or class of items; or



92 (ii) Pay an affiliate under this act an amount
93 more than the affiliate charges an unaffiliated entity for the
94 same item or class of items.

95 (5) The City of Okolona shall not use its electric energy
96 sales revenues to subsidize the provision by an affiliate or
97 unaffiliated broadband operator of broadband services to the
98 public. The City of Okolona may, however, make capital
99 investments in an affiliate, make loans to an affiliate at a fair
100 market rate and enter loan guarantees for the benefit of an
101 affiliate, all of which may be in such amounts and on such terms
102 as the City of Okolona authorizes and determines to be prudent.

103 (6) Before broadband services may be offered under this act,
104 the City of Okolona must, by resolution of the board of aldermen
105 and spread upon its minutes, have an economic feasibility study
106 conducted and adopt a plan that will provide service to its entire
107 certificated area. Such feasibility study shall be made available
108 to the City of Okolona electric customers upon request.

109 **SECTION 3.** (1) The City of Okolona shall not allow the
110 installation or operation of a broadband system on its electric
111 delivery system by an affiliate or other broadband operator to
112 diminish the reliability of the electric delivery system.

113 (2) The City of Okolona shall not require any person to
114 purchase broadband services from an affiliate or other broadband
115 operator as a condition of receiving or continuing to receive
116 electric energy from the City of Okolona.



117 (3) The City of Okolona shall not disconnect, nor threaten
118 to disconnect, its electric service to any customer due to the
119 customer's failure to pay for broadband services provided to the
120 customer by an affiliate or other broadband operator.

121 **SECTION 4.** The City of Okolona may grant permission to an
122 affiliate or other broadband operator to use the electric delivery
123 system of the City of Okolona to provide broadband services. The
124 use of the City of Okolona's electric delivery system for the
125 provision of broadband services by the affiliate or other
126 broadband operator shall not be considered an additional burden on
127 the real property upon which the City of Okolona's electric
128 delivery system is located and shall not require the affiliate or
129 other broadband operator to obtain the consent of anyone having an
130 interest in the real property upon which the City of Okolona's
131 electric delivery system is located.

132 **SECTION 5.** This act is to be liberally construed, and the
133 enumeration of any object, power, manner, method or thing shall
134 not be deemed to exclude like or similar objects, purposes,
135 powers, manners, methods or things. Nothing in this act shall be
136 interpreted or construed to infringe upon or otherwise encumber
137 the property or property interests used by any investor-owned
138 electric public utility to provide electric service to its
139 customers.

140 **SECTION 6.** This act shall take effect and be in force from
141 and after its passage.

