

By: Senator(s) Whaley, Blackwell, Younger,
Parker

To: Energy

SENATE BILL NO. 2453
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 77-3-21, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE COMMISSION TO CANCEL A MUNICIPALITY'S CERTIFICATE TO
3 PROVIDE SERVICE GREATER THAN ONE MILE OUTSIDE ITS CORPORATE
4 BOUNDARIES UPON A FINDING THAT THE MUNICIPALITY DID NOT PROVIDE
5 REASONABLY ADEQUATE SERVICE; TO AMEND SECTION 77-3-22, MISSISSIPPI
6 CODE OF 1972, TO INCLUDE MUNICIPALLY OWNED OR OPERATED ELECTRIC
7 UTILITIES PROVIDING SERVICE GREATER THAN ONE MILE OUTSIDE OF
8 MUNICIPAL BOUNDARIES; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 77-3-21, Mississippi Code of 1972, is
11 amended as follows:

12 77-3-21. The commission may, after a hearing had upon due
13 notice, make such findings as may be supported by proof as to
14 whether any utility holding a certificate under the provisions of
15 this article is rendering reasonably adequate service in any area
16 covered by such utility's certificate. In the event the
17 commission finds that such utility is not rendering reasonably
18 adequate service, the commission may enter an order specifying in
19 what particulars such utility has failed to render reasonably
20 adequate service and order that such failure be corrected within a
21 reasonable time, such time to be fixed in such order. If the



22 utility so ordered to correct such a failure fails to comply with
23 such order of the commission and the commission finds that
24 cancellation of its certificate would be in the best interest of
25 the consuming public served by the holder of the certificate, its
26 certificate for the area affected may be revoked and cancelled by
27 the commission.

28 Prior to any municipality exercising the power of eminent
29 domain as provided in Section 77-3-17, the commission shall
30 determine that the certificate of public convenience and necessity
31 granted to the utility pursuant to Section 77-3-13 for the service
32 area wherein such facilities are located, shall be cancelled as
33 provided in this section. Nothing in this paragraph shall be
34 construed to include service for water and sewage.

35 Notwithstanding Section 77-3-1(1), the commission shall have
36 jurisdiction to investigate whether any municipality that holds a
37 certificate to provide service greater than one (1) mile outside
38 its municipal boundaries is providing reasonably adequate service.
39 Following a hearing and upon making such a finding, the commission
40 shall have full authority to enter any order authorized under this
41 section, including canceling the certificate for the area that
42 extends beyond the municipalities' boundaries.

43 **SECTION 2.** Section 77-3-22, Mississippi Code of 1972, is
44 amended as follows:

45 77-3-22. Notwithstanding Section 77-3-1(1), if the
46 commission determines that any privately owned water and/or sewer



47 system, or any municipally owned or operated electric utility
48 providing service greater than one (1) mile outside its municipal
49 boundaries and within its jurisdiction is unable or unwilling to
50 adequately serve its customers or has been actually or effectively
51 abandoned by its owner, or that its management is grossly
52 inefficient, irresponsible or unresponsive to the needs of its
53 customers, the commission or its designated representative may
54 petition the Chancery Court of the First Judicial District of
55 Hinds County or the chancery court of any county wherein the
56 public utility does business for an order attaching the assets of
57 the privately owned water and/or sewer system or municipally owned
58 or operated electric utility and placing such * * * system under
59 the sole control and responsibility of a receiver. If the court
60 determines that the petition is proper in all respects and finds,
61 after a hearing thereon, the allegations contained in the petition
62 are true, it shall order that the * * * system be placed in
63 receivership. The court, in its discretion and in consideration
64 of the recommendation of the commission or its designated
65 representative, may appoint a receiver who shall be a responsible
66 individual, partnership, corporation or political subdivision
67 knowledgeable in water * * *, sewer or electric service affairs
68 and who shall maintain control and responsibility for the
69 operation and management of the affairs of such * * * system. The
70 receiver shall operate the * * * system so as to preserve the
71 assets of the * * * system and to serve the best interests of its



72 customers. The receiver shall be compensated from the assets of
73 the * * * system in an amount to be determined by the court.

74 Control of and responsibility for the * * * system shall
75 remain in the receiver until the court determines that it is in
76 the best interests of the customers that the * * * system be
77 returned to the owner, transferred to another owner or assumed by
78 another * * * operator, system or public service corporation. If
79 the court, after hearing, determines that control of and
80 responsibility for the affairs of the * * * system should not be
81 returned to the legal owner thereof, the receiver may proceed to
82 liquidate the assets of such * * * system in the manner provided
83 by law.

84 In any court-initiated receivership for a municipally owned
85 or operated electric utility providing service greater than one
86 (1) mile outside its municipal boundaries, the receiver shall
87 assume the responsibilities and obligations of the municipality
88 with regard to any existing wholesale power contract.

89 Mississippi laws and Mississippi Rules of Civil Procedure
90 generally applicable to receivership shall govern receiverships
91 created under this section.

92 This section is in addition to the provisions of Section
93 77-3-21.

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

