

By: Senator(s) Carter

To: Energy

SENATE BILL NO. 2604

1 AN ACT TO AMEND SECTION 77-3-16, MISSISSIPPI CODE OF 1972, TO
2 ALLOW PUBLIC UTILITIES TO PROVIDE FOR ELECTRONIC BIDS IN PROCESSES
3 WHICH REQUIRE COMPETITIVE BIDDING; TO ALLOW BIDDERS TO ATTACH
4 CERTIFICATES OF RESPONSIBILITY AND CERTAIN STATEMENTS TO
5 ELECTRONIC BIDS; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 77-3-16, Mississippi Code of 1972, is
8 amended as follows:

9 77-3-16. (1) All contracts for construction, extension
10 and/or repair of facilities in excess of Two Hundred Thousand
11 Dollars (\$200,000.00) by or on the behalf of any public utility
12 subject to rate regulations by the Mississippi Public Service
13 Commission, shall be governed by this section. The public utility
14 shall maintain a list of contractors and suppliers qualified to
15 perform contracts within the scope of proposed utility projects.
16 The public utility shall, upon written request of any qualified
17 prospective bidder, add his or its name to such list. At least
18 every six (6) months, the public utility shall publish in a
19 newspaper, having general circulation in the area in which the



20 utility operates, a notice requesting names of qualified
21 contractors and suppliers. Upon written request by qualified
22 contractors and suppliers, those names shall be added to such
23 list. The public utility shall give to each contractor or
24 supplier on said list who is qualified with respect to a project
25 under consideration written invitation to bid those projects
26 subject to this section. Contracts subject to this section shall
27 be awarded to the lowest and best bidder. Provided, however,
28 nothing contained herein shall prohibit any public utility from
29 performing services covered by this section with its own regularly
30 employed workforce.

31 (2) The public utility may enter into a master contract with
32 the lowest and best contractor to cover all construction work to
33 be performed in a specified geographic area.

34 (3) If the chief executive officer of a public utility
35 determines that an emergency exists which affects the public
36 health, safety or welfare, the provisions of this section shall
37 not apply. As used in this section, an emergency is any
38 occurrence in which service is interrupted.

39 (4) The provisions of this section shall not apply to
40 contracts which by their nature are not adapted to competitive
41 bidding, including, but not limited to:

- 42 (a) Items which may be acquired from a sole source;
- 43 (b) Contracts for professional services;



44 (c) Equipment and systems which, by reason of the
45 training of personnel or of any inventory replacement of parts
46 maintained by the utility, are or should be compatible with
47 existing equipment;

48 (d) Contracts for interstate or intrastate carriage of
49 persons or property with a common carrier or contract carrier at
50 the rates set forth in the officially approved tariff of that
51 carrier; and

52 (e) Such contracts as the commission may define by
53 regulation.

54 (5) The Public Service Commission shall have the authority
55 to monitor all conditions contained in this section.

56 (6) Electronic bids. Public utilities as defined in Section
57 77-3-3 may provide a secure electronic interactive system for the
58 submission of bids in bidding processes which require competitive
59 bidding that shall be an additional bidding option for those
60 bidders who choose to submit their bids electronically. Those
61 public utilities shall make the appropriate arrangements necessary
62 to accept electronic bids from bidders who choose to submit their
63 bids electronically for purchases requiring competitive bidding
64 under this section. When construction bids are submitted
65 electronically, the bidder shall be deemed compliant with Sections
66 31-3-21(1) and (2), which require a certificate of responsibility
67 or statement that the bid enclosed does not exceed Fifty Thousand
68 Dollars (\$50,000.00) on the exterior of the envelope, by including



69 as an attachment with the electronic bid submission said
70 certificate of responsibility or statement that the bid enclosed
71 does not exceed Fifty Thousand Dollars (\$50,000.00).

72 (7) With respect to any facility or contract for a facility
73 serving a customer under Section 22 of * * * Senate Bill No. 2001,
74 2024 Second Extraordinary Session, nothing in this section shall
75 supersede the provisions of Section 22 of * * * Senate Bill No.
76 2001, 2024 Second Extraordinary Session.

77 **SECTION 2.** This act shall take effect and be in force from
78 and after July 1, 2024.

