

By: Senator(s) Carter

To: Energy

SENATE BILL NO. 2367

1 AN ACT TO BRING FORWARD SECTIONS 77-3-10, 77-3-11, 77-3-13,
 2 77-3-14, 77-3-16, 77-3-35, 77-3-37, 77-3-39, 77-3-41, 77-3-93, AND
 3 77-3-95, MISSISSIPPI CODE OF 1972, RELATING TO CERTIFICATES OF
 4 PUBLIC CONVENIENCE AND NECESSITY, RATES, AND SERVICE, FOR PURPOSES
 5 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 77-3-10, Mississippi Code of 1972, is
 8 brought forward as follows:

9 77-3-10. (1) All public utilities, the rates of which are
 10 subject to regulation under the provisions of this chapter, shall
 11 file with the commission copies of contracts, wherein the
 12 consideration therefor is One Million Dollars (\$1,000,000.00) or
 13 more, with any holding, managing, operating, constructing,
 14 engineering or purchasing company, which is an affiliate of or a
 15 subsidiary of, such public utility, and when requested by the
 16 commission, copies of such contracts wherein the consideration
 17 therefor is less than One Million Dollars (\$1,000,000.00) and
 18 copies of contracts with any person selling service of any kind.
 19 The commission may, after hearing on reasonable notice, disallow

20 any payment to be capitalized or included as an operating cost of
21 the public utility in the fixing of rates or as an asset in fixing
22 a rate base under any such contract if it is found by the
23 commission to be unjust or unreasonable, or made for the purpose
24 or with the effect of concealing, unreasonably transferring or
25 unreasonably dissipating the earnings of the public utility.
26 Provided, however, that in the case of a public utility with fewer
27 than twenty-five thousand (25,000) customers, this subsection
28 shall apply only to such contracts as the commission shall request
29 such public utility to file.

30 (2) No public utility as described in subsection (1) of this
31 section shall pay any fees, commission or compensation of any
32 description whatsoever to any affiliated or subsidiary holding,
33 managing, operating, constructing, engineering or purchasing
34 company for services rendered or to be rendered without first
35 filing copies of all agreements and contracts therefor with the
36 commission. The commission may, after hearing on reasonable
37 notice, disallow any such payment to be capitalized or included as
38 an operating cost of the public utility in the fixing of rates or
39 as an asset in fixing a rate base under such agreement or contract
40 if it is found by the commission to be unjust or unreasonable.
41 Provided, however, that this subsection shall not apply to motor
42 carriers of passengers.

43 (3) The public service commission staff, upon direction of
44 the commission, shall have full power and authority to investigate

45 any such contract, arrangement, purchase or sale, and no payment
46 disallowed by the commission shall be capitalized or included as
47 an operating cost of the public utility in the fixing of rates or
48 as an asset in fixing a rate base. If, in any such investigation,
49 the public utility or affiliate shall unreasonably refuse to
50 comply with any request of the commission for information with
51 respect to relevant accounts and records, whether of such public
52 utility or any affiliate, any portion of which may be applicable
53 to any transaction under investigation, so that such parts thereof
54 as the commission may deem material may be made part of the
55 record, such refusal shall justify the commission in disapproving
56 the transaction under investigation and disallowing payments in
57 pursuance thereof, to be capitalized or included as an operating
58 cost of the public utility in the fixing of rates or as an asset
59 in fixing a rate base.

60 (4) With respect to any facility or contract for a facility
61 serving a customer under Section 77-3-271, nothing in this section
62 shall supersede the provisions of Section 77-3-271.

63 **SECTION 2.** Section 77-3-11, Mississippi Code of 1972, is
64 brought forward as follows:

65 77-3-11. (1) No person shall construct, acquire, extend or
66 operate equipment for manufacture, mixing, generating,
67 transmitting or distributing natural or manufactured gas, or mixed
68 gas, or water, for any intrastate sale to or for the public for
69 compensation, or for the operation of a public utility operating a

70 business and equipment or facilities as contemplated by * * *
71 Section 77-3-3(d)(iii), without first having obtained from the
72 commission a certificate that the present or future public
73 convenience and necessity require or will require the operation of
74 such equipment or facility.

75 (2) No person shall construct, acquire, extend or operate
76 equipment for manufacture, generating, transmitting or
77 distributing electricity for any intrastate or interstate sale to
78 or for the public for compensation without first having obtained
79 from the commission a certificate that the present and future
80 public convenience and necessity require or will require the
81 operation of such equipment or facility. Provided, however,
82 nothing herein contained shall be construed to require a joint
83 municipal electric power agency organized in accordance with the
84 provisions of Section 77-5-201 et seq., Mississippi Code of 1972,
85 to obtain any permit, license, certificate or approval from the
86 Mississippi Public Service Commission.

87 (3) No person shall construct, acquire, extend or operate
88 equipment or facilities for collecting, transmitting, treating or
89 disposing of sewage, or otherwise operating an intrastate sewage
90 disposal service, to or for the public for compensation, without
91 first having obtained from the commission a certificate that the
92 present or future public convenience and necessity require or will
93 require the operation of such equipment or facilities.

94 (4) However, nothing herein shall be construed to require
95 any certificate of convenience and necessity from the commission
96 for the production and gathering of natural gas, the sale of
97 natural gas in or within the vicinity of the field where produced,
98 the distribution or sale of liquefied petroleum gas, the sale of
99 natural gas to the ultimate consumer for use as a motor vehicle
100 fuel, or for the facilities and equipment utilized in any such
101 operations.

102 (5) Upon complaints filed by not less than ten percent (10%)
103 of the total subscribers or three thousand five hundred (3,500)
104 subscribers of a public utility, whichever is less, then the
105 commission shall hold a hearing on the adequacy of service as
106 contemplated in Section 77-3-21.

107 (6) With respect to any facility or contract for a facility
108 serving a customer under Section 77-3-271, nothing in this section
109 shall supersede the provisions of Section 77-3-271.

110 **SECTION 3.** Section 77-3-13, Mississippi Code of 1972, is
111 brought forward as follows:

112 77-3-13. (1) The commission shall issue a certificate of
113 convenience and necessity to any person engaged in the
114 construction or operation of such equipment or facility as is
115 mentioned in subsection (1) of Section 77-3-11 on March 29, 1956,
116 for the construction or operation then being conducted, without
117 requiring proof that public convenience and necessity will be
118 served by such construction or operation, and without further

119 proceedings, if application for such certificate is made to the
120 commission within six (6) months after March 29, 1956. Any
121 utility covered by this chapter which has heretofore been under
122 the jurisdiction of the commission shall, upon application within
123 six (6) months of March 29, 1956, be issued a certificate
124 authorizing it to conduct operations and make extensions within
125 any area covered by its service area map or maps on file with the
126 commission on March 29, 1956.

127 (2) The commission shall issue a certificate of convenience
128 and necessity to any person engaged in the construction or
129 operation of a sewage disposal service as mentioned in subsection
130 (2) of Section 77-3-11 on August 9, 1968, for the construction or
131 operation then being conducted, without requiring proof that
132 public convenience and necessity will be served by such
133 construction or operation, and without further proceedings, if
134 application for such certificate is made to the commission within
135 six (6) months after August 9, 1968. Pending the filing of such
136 application and the issuance of a certificate, the continuance of
137 such construction or operation shall be lawful.

138 Except as otherwise specifically provided by subsection (2)
139 of Section 77-3-11 or by this subsection, that portion of the
140 business of a public utility dealing with the operation of a
141 sewage disposal service as provided by subsection (2) of Section
142 77-3-11 shall be subject to provisions of this chapter, in like
143 manner and with like effect as if such business had been included

144 within the definition of a "public utility" in the original
145 enactment of this chapter.

146 (3) In all other cases, except as provided in subsection (9)
147 of this section, the commission shall set the matter for hearing,
148 and shall give reasonable notice of the hearing thereon to all
149 interested persons, as in its judgment may be necessary under its
150 rules and regulations, involving the financial ability and good
151 faith of the applicant, the necessity for additional services and
152 such other matters as the commission deems relevant. The
153 commission may issue a certificate of public convenience and
154 necessity, or refuse to issue the same or issue it for the
155 establishment or construction of a portion only of the
156 contemplated plant, route, line or system, or extension thereof,
157 or for the partial exercise only of such right or privilege, and
158 may attach to the exercise of the rights granted by the
159 certificate such reasonable terms and conditions as to time or
160 otherwise as, in its judgment, the public convenience, necessity
161 and protection may require, and may forfeit such certificate after
162 issuance for noncompliance with its terms, or provide therein for
163 an ipso facto forfeiture of the same for failure to exercise the
164 rights granted within the time fixed by the certificate. However,
165 nothing in this section shall be construed as requiring such
166 certificate for a municipally owned plant, project or development,
167 route, line or system or extension thereof in areas within one (1)
168 mile of the corporate boundaries which are not certificated to

169 another utility, and nothing in this chapter or other provision of
170 law shall be construed as allowing a municipally owned plant,
171 project or development, route, line or system or extension thereof
172 in areas certificated to another utility. No certificate shall be
173 required for extensions or additions within the corporate limits
174 of a municipality being served by the holder of a certificate of
175 convenience and necessity.

176 (4) The commission shall, prior to issuing a certificate of
177 public convenience and necessity to a public utility for any new
178 construction, extension or addition to its property, ascertain
179 that all labor, materials, property or services to be rendered for
180 any proposed project will be supplied at reasonable prices. The
181 commission shall, after issuance of a certificate for facilities
182 estimated to cost Five Million Dollars (\$5,000,000.00) or more or
183 estimated to cost an amount equal to one percent (1%) of the rate
184 base allowed by the commission in the utility's last rate case,
185 whichever is greater, assign the public utilities staff to monitor
186 such projects, to inspect periodically construction in progress,
187 and to report to the commission any variances or deviations as
188 found, if any, and to file progress reports thereon with the
189 commission. Such public utility shall file a similar report with
190 the commission at such times and in such form as the commission
191 shall require, including any substantial changes in plans and
192 specifications, cost allocations, construction schedule and funds
193 available to complete the project.

194 (5) The commission may issue a temporary certificate in
195 cases of emergency, to assure maintenance of adequate service or
196 to serve particular customers, without notice or hearing, pending
197 the determination of an application for a certificate, and may by
198 regulation exempt from the requirements of Sections 77-3-11
199 through 77-3-21: (a) temporary acts or operations for which the
200 issuance of a certificate will not be required in the public
201 interest; and (b) extensions or additions of service facilities
202 outside of municipalities under such general rules as will promote
203 the prompt availability of such service to prospective users, and
204 at the same time prevent unnecessary and uneconomic duplication of
205 such facilities as between two (2) or more persons.

206 (6) Prior to the acquisition pursuant to Section 77-3-17,
207 or other provisions of law, by any public agency, authority,
208 district, state or other agency, institution or political
209 subdivision thereof, of any certificate of public convenience and
210 necessity or portion thereof, service areas or portion thereof, or
211 operating rights or portion thereof, issued or granted by the
212 commission pursuant to the provisions of this section and/or the
213 facilities or other properties and equipment of the utility
214 providing service therein of any regulated utility, as defined in
215 Section 77-3-3(d) (i), (ii) and (iii), the commission shall first
216 determine if such service area, certificate of public convenience
217 and necessity, or operating right, or portions thereof, should be
218 cancelled as provided in Section 77-3-21.

219 (7) Before the acquisition pursuant to any negotiated
220 purchase agreement entered into before 1987, by any public agency,
221 authority, district, state or other agency, institution or
222 political subdivision thereof, of any certificate of public
223 convenience and necessity or portion thereof, service areas or
224 portion thereof, or operating rights or portion thereof, issued or
225 granted by the commission pursuant to this section and/or the
226 facilities or other properties and equipment of the utility
227 providing service therein of any regulated utility defined in
228 Section 77-3-3(d)(i), the commission first shall determine that
229 such service area, certificate of public convenience and
230 necessity, or operating right, or portions thereof, shall be
231 cancelled as provided in Section 77-3-21.

232 (8) Notwithstanding any provision of this section to the
233 contrary, the certificate as applied for may be granted without a
234 hearing in uncontested cases; however, the commission may hear any
235 uncontested case if it determines that the public interest will be
236 served thereby.

237 (9) With respect to any facility or contract for a facility
238 serving a customer under Section 77-3-271, nothing in this section
239 shall supersede the provisions of Section 77-3-271.

240 **SECTION 4.** Section 77-3-14, Mississippi Code of 1972, is
241 brought forward as follows:

242 77-3-14. (1) Notwithstanding the provisions of Section
243 77-3-11, Mississippi Code of 1972, and Section 77-3-13,

244 Mississippi Code of 1972, no public utility or other person shall
245 begin the construction of any facility for the generation and
246 transmission of electricity to be directly or indirectly used for
247 the furnishing of public utility service in this state, even
248 though the facility be for furnishing the service already being
249 rendered, without first obtaining from the commission a
250 certificate that the public convenience and necessity requires, or
251 will require, such construction.

252 (2) The commission shall develop, publicize and keep current
253 an analysis of the long-range needs for expansion of facilities
254 for the generation of electricity in Mississippi, including its
255 estimate of the probable future growth of the use of electricity,
256 the probable needed generation reserves, the extent, size, mix and
257 general location of generating plants and arrangements for pooling
258 power to the extent not regulated by the Federal Energy Regulatory
259 Commission and other arrangements with other utilities and energy
260 suppliers to achieve maximum efficiencies for the benefit of the
261 people of Mississippi, and shall consider such analysis in acting
262 upon any petition by any utility for construction. Each public
263 utility engaged in the generation, transmission and distribution
264 of electric energy shall, upon request of the commission, submit
265 to the commission its forecasts and plans for the addition of
266 generating capacity planned by the utility for an ensuing
267 five-year period and shall furnish to the commission such
268 documents and proof with respect to the need therefor as the

269 commission may reasonably require. In considering these analyses
270 and forecasts, the commission shall consult with the University
271 Research Center, the utilities commissions or comparable agencies
272 of neighboring states, the Federal Energy Regulatory Commission
273 and other agencies having relevant information and/or duties and
274 responsibilities in this area, and particularly with the
275 Department of Economic and Community Development with reference to
276 the accomplishment of the Mississippi Energy Plan provided for in
277 Section 57-39-11, Mississippi Code of 1972.

278 (3) In acting upon any petition for the construction of any
279 facility for the generation of electricity, the commission shall
280 take into account the utility's arrangements with other electric
281 utilities for interchange of power, pooling of plant, purchase of
282 power and other methods for providing reliable, efficient and
283 economical electric service.

284 (4) As a condition for receiving such certificate, the
285 utility shall file an estimate of construction costs in such
286 detail as the commission may require. The commission shall hold a
287 public hearing on each application, and no certificate shall be
288 granted unless the commission has approved the estimated
289 construction costs.

290 (5) The commission shall maintain an ongoing review of such
291 construction as it proceeds, and the applicant shall submit at
292 such times as the commission shall require during construction a

293 progress report and any revisions in the cost estimates for the
294 construction.

295 (6) The certification requirements of this section shall not
296 apply to persons who construct an electric generating facility
297 primarily for that person's own use and not for the primary
298 purpose of producing electricity, heat or steam for sale to or for
299 the public for compensation; and the commission may provide for
300 exemption from certification requirements for cogeneration
301 facilities and small standby facilities; provided, however, that
302 such persons shall, nevertheless, be required to report to the
303 commission the proposed construction of such a facility before
304 beginning construction thereof.

305 (7) With respect to any facility or contract for a facility
306 serving a customer under Section 77-3-271, nothing in this section
307 shall supersede the provisions of Section 77-3-271.

308 **SECTION 5.** Section 77-3-16, Mississippi Code of 1972, is
309 brought forward as follows:

310 77-3-16. (1) All contracts for construction, extension
311 and/or repair of facilities in excess of Two Hundred Thousand
312 Dollars (\$200,000.00) by or on the behalf of any public utility
313 subject to rate regulations by the Mississippi Public Service
314 Commission, shall be governed by this section. The public utility
315 shall maintain a list of contractors and suppliers qualified to
316 perform contracts within the scope of proposed utility projects.
317 The public utility shall, upon written request of any qualified

318 prospective bidder, add his or its name to such list. At least
319 every six (6) months, the public utility shall publish in a
320 newspaper, having general circulation in the area in which the
321 utility operates, a notice requesting names of qualified
322 contractors and suppliers. Upon written request by qualified
323 contractors and suppliers, those names shall be added to such
324 list. The public utility shall give to each contractor or
325 supplier on said list who is qualified with respect to a project
326 under consideration written invitation to bid those projects
327 subject to this section. Contracts subject to this section shall
328 be awarded to the lowest and best bidder. Provided, however,
329 nothing contained herein shall prohibit any public utility from
330 performing services covered by this section with its own regularly
331 employed workforce.

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

335 (3) If the chief executive officer of a public utility
336 determines that an emergency exists which affects the public
337 health, safety or welfare, the provisions of this section shall
338 not apply. As used in this section, an emergency is any
339 occurrence in which service is interrupted.

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

343 (a) Items which may be acquired from a sole source;

344 (b) Contracts for professional services;

345 (c) Equipment and systems which, by reason of the
346 training of personnel or of any inventory replacement of parts
347 maintained by the utility, are or should be compatible with
348 existing equipment;

349 (d) Contracts for interstate or intrastate carriage of
350 persons or property with a common carrier or contract carrier at
351 the rates set forth in the officially approved tariff of that
352 carrier; and

353 (e) Such contracts as the commission may define by
354 regulation.

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

357 (6) With respect to any facility or contract for a facility
358 serving a customer under Section 77-3-271, nothing in this section
359 shall supersede the provisions of Section 77-3-271.

360 (7) Public utilities, as defined in Section 77-3-3, may
361 provide a secure electronic interactive system for the submittal
362 of bids requiring competitive bidding that shall be an additional
363 bidding option for those bidders who choose to submit their bids
364 electronically. Public utilities shall implement the provisions
365 necessary to accept electronic bids from those bidders who choose
366 to submit their bids electronically for all purchases requiring
367 competitive bidding under this section.

368 When construction bids are submitted electronically, the
369 requirement for including a certificate of responsibility or a
370 statement that the bid enclosed does not exceed Fifty Thousand
371 Dollars (\$50,000.00) on the exterior of the bid envelope, as
372 indicated in Section 31-3-21, shall be deemed met by including
373 such certificate or statement as an attachment with the electronic
374 bid submittal.

375 **SECTION 6.** Section 77-3-35, Mississippi Code of 1972, is
376 brought forward as follows:

377 77-3-35. (1) Subject to the provisions of subsections (2)
378 and (4) of this section, under such reasonable rules and
379 regulations as the commission may prescribe, every public utility,
380 as to the rates which are subject to regulation under the
381 provisions of this article, shall file with the commission, within
382 such time and in such form as the commission may designate,
383 schedules showing such rates and charges established by it and
384 collected and enforced, or to be collected or enforced within the
385 jurisdiction of the commission. The utility shall keep copies of
386 such schedules open to public inspection under such reasonable
387 rules and regulations as the commission may prescribe.

388 No such public utility shall directly or indirectly, by any
389 device whatsoever, or in anywise, charge, demand, collect or
390 receive from any person or corporation for any service rendered or
391 to be rendered by such public utility a greater or less
392 compensation than that prescribed in the schedules of such public

393 utility applicable thereto then filed in the manner provided in
394 this section, and no person or corporation shall receive or accept
395 any service from any such public utility for a compensation
396 greater or less than prescribed in such schedules.

397 Utilities selling commodities or rendering any service to
398 cooperatives, municipalities or other nonprofit organizations,
399 shall, at the order of the commission, file schedules of such
400 rates and charges for information purposes only.

401 The commission may provide, by rules and regulations to be
402 adopted by it, the following:

403 (a) That utilities may contract with a manufacturer
404 that is not a utility for furnishing the services or commodities
405 described in Section 77-3-3(d) (i), (ii) and (iii) for use in
406 manufacturing;

407 (b) That utilities described in Section 77-3-3(d) (i)
408 also may contract with a customer that has a minimum yearly
409 electric consumption of two thousand five hundred (2,500) megawatt
410 hours per year or greater for furnishing the services or
411 commodities described in Section 77-3-3(d) (i); and

412 (c) That utilities described in Section 77-3-3(d) (ii)
413 also may contract with a customer that has a minimum yearly
414 consumption of eight million five hundred thousand (8,500,000)
415 cubic feet of gas per year or greater for furnishing the services
416 or commodities described in Section 77-3-3(d) (ii).

417 These contracts may be entered into without reference to the
418 rates or other conditions which may be established or fixed
419 pursuant to other provisions of this article. Such regulations
420 shall provide that before becoming effective any such contract
421 shall be approved by the commission.

422 (2) (a) The Legislature recognizes that the maintenance of
423 universal telephone service in Mississippi is a continuing goal of
424 the commission and that the public interest requires that the
425 commission be authorized and encouraged to formulate and adopt
426 rules and policies that will permit the commission, in the
427 exercise of its expertise, to regulate and control the provision
428 of telecommunications services to the public in a changing
429 environment where competition and innovation are becoming more
430 commonplace, giving due regard to the interests of consumers, the
431 public, the providers of telecommunications services and the
432 continued availability of good telecommunications service. The
433 commission is authorized to issue more than one (1) competing
434 certificate of public convenience and necessity to provide local
435 exchange telephone service in the same geographical area;
436 provided, that the issuing of any such additional certificates
437 shall not otherwise affect any certificate of public convenience
438 and necessity heretofore issued to any provider of such services.
439 The commission shall adopt all rules and regulations
440 necessary for implementing this subsection (2) (a).

441 The commission may apply standards adopted by the Federal
442 Communications Commission that are generally applicable to
443 companies that are designated and operate as eligible
444 telecommunications carriers, pursuant to 47 USCS Section 214(e).
445 The commission may exercise its authority to ensure that these
446 carriers, including commercial mobile radio service providers that
447 receive federal eligible telecommunications status, comply with
448 those standards, only to the extent permitted by and consistent
449 with applicable federal laws and regulations.

450 The commission retains the authority to issue orders to
451 implement its rules, regulations and the provisions of this
452 chapter, including the authority to grant and modify, impose
453 conditions upon, or revoke a certificate.

454 (b) The commission may, on its own motion or at the
455 request of any interested party, enter an order, after notice and
456 opportunity for hearing, determining and directing that, in the
457 provision of a service or facility by a utility of the type
458 defined in Section 77-3-3(d)(iii), competition or other market
459 forces adequately protect the public interest, or that a service
460 or facility offered by the utility is discretionary, and that the
461 public interest requires that the utility's rates and charges for
462 such service or facility shall not thereafter be subject to
463 regulation by the commission.

464 (c) In making its determination whether the rates and
465 charges for a service or facility shall not be subject to

466 regulation by the commission, the commission may consider
467 individually or collectively:

468 (i) Whether the exercise of commission
469 jurisdiction produces tangible benefits to the utility's customers
470 that exceed those available by reliance on market forces or other
471 factors;

472 (ii) Whether technological changes, competitive
473 forces, discretionary nature of the service or facility, or
474 regulation by other state and federal regulatory bodies render the
475 exercise of jurisdiction by the Mississippi commission unnecessary
476 or wasteful;

477 (iii) Whether the exercise of commission
478 jurisdiction inhibits a regulated utility from competing with
479 unregulated providers of functionally similar telecommunications
480 services or equipment;

481 (iv) Whether the existence of competition tends to
482 prevent abuses, unjust discrimination and extortion in the charges
483 of telecommunications utilities for the service or facility in
484 question;

485 (v) The availability of the service or facility
486 from other persons and corporations; or

487 (vi) Any other factors that the commission
488 considers relevant to the public interest.

489 In making the determination as above set forth, the
490 commission may specify the period of time during which the

491 utility's rates and charges for the service or facility shall not
492 thereafter be subject to regulation. Likewise, after notice and
493 opportunity for hearing, the commission may revoke a determination
494 and direction made under this section, when the commission finds
495 that commission regulation of the utility's rates and charges for
496 the service or facility in question is necessary to protect the
497 public interest.

498 (3) (a) The commission is authorized to consider and adopt
499 alternative methods of regulation proposed by a utility of the
500 type defined in Section 77-3-3(d) (i), (ii) or (iii) to establish
501 rates for the services furnished by such utility that are fair,
502 just and reasonable to the public and that provide fair, just and
503 reasonable compensation to the utility for such services.

504 (b) For purposes of this subsection, the phrase
505 "alternative methods of regulation" means the regulation of
506 utility rates and charges by methods other than the rate base or
507 rate of return method of regulation set forth in other provisions
508 of this article.

509 (4) (a) Notwithstanding any other provisions of this
510 article or any other statute to the contrary, and consistent with
511 the provisions herein, for those public utilities of the type
512 defined in Section 77-3-3(d) (iii) that are subject to the
513 competitive requirements set forth in 47 USCS Section 251 or those
514 public utilities that have waived a suspension granted by the
515 commission of the requirements of 47 USCS Section 251(b) and (c)

516 as authorized by 47 USCS Section 251(f) (2), the Legislature has
517 determined that, in the provision of all services, other than
518 switched access service, competition or other market forces
519 adequately protect the public interest. Therefore, subject to
520 paragraph (d) of this subsection, the commission no longer has
521 jurisdiction over the services, other than the provision of
522 intrastate switched access service, provided by such public
523 utilities.

524 (b) For those public utilities of the type defined in
525 Section 77-3-3(d) (iii) that have been granted a suspension by the
526 commission of the requirements of 47 USCS Section 251(b) and (c)
527 as authorized by 47 USCS Section 251(f) (2), the commission, at the
528 request of such public utility, shall enter an order, after notice
529 and opportunity for hearing, determining that such public
530 utility's provision of service will be subject to the same level
531 of regulation as provided in paragraph (a) of this subsection, but
532 only after the commission determines that such public utility has
533 satisfied one (1) of the following conditions:

534 (i) Has executed interconnection agreements which
535 have been approved by the commission to the extent required under
536 law with two (2) or more local exchange carriers unaffiliated with
537 such public utility;

538 (ii) Offers for resale at wholesale rates,
539 pursuant to 47 USCS Section 251(c) (4) (A) and (B), such public

540 utility's retail telecommunications services provided to
541 subscribers who are not telecommunications carriers;

542 (iii) At least two (2) competitive
543 telecommunications providers unaffiliated with such requesting
544 public utility are offering service to such public utility's
545 subscribers; or

546 (iv) Has experienced a material reduction in
547 access lines or minutes of use in two (2) consecutive years.

548 A waiver of suspension under paragraph (a) of this subsection
549 shall be effective upon written notification to the commission.
550 The initial rate utilized by such public utility shall be the rate
551 for such service in effect at the time of such waiver under this
552 section. The commission, upon request of the public utility, may
553 return such public utility to a form of regulation permitted under
554 this section.

555 (c) Subject to paragraph (d) of this subsection, a
556 public utility of the type defined in Section 77-3-3(d)(iii) which
557 is regulated under the provisions of paragraph (a) of this
558 subsection shall not be subject to any rule, regulation or order
559 promulgated by the commission with regard to retail services. The
560 provisions of Section 77-3-23 shall not apply to such public
561 utility regulated under the provisions of paragraph (a) of this
562 subsection.

563 (d) Nothing in this chapter shall be construed to
564 affect the duties of an incumbent local exchange carrier arising

565 under 47 USCS Sections 251 and 252 and the Federal Communications
566 Commission's regulations implementing these sections, or the
567 commission's authority to approve, arbitrate and enforce
568 interconnection agreements and to resolve disputes pursuant to 47
569 USCS Sections 251 and 252 and the Federal Communications
570 Commission's regulations implementing these sections or any other
571 applicable federal law or regulation. The commission shall
572 exercise its jurisdiction in its role as a dispute resolution
573 forum to hear complaints between certificated carriers, including
574 complaints to prohibit anti-competitive practices and with respect
575 to enforcement or modification of any wholesale self-effectuating
576 enforcement mechanism plan in place as of July 1, 2011, and to
577 issue orders to resolve such complaints, provided that such
578 actions are consistent with federal telecommunications law. The
579 commission shall interpret and apply federal, not state,
580 substantive law. The commission shall adjudicate and enforce such
581 claims in accordance with state procedural law and rules. No
582 claim shall be brought to the commission as to which the FCC has
583 exclusive jurisdiction. All complaints brought between carriers
584 pursuant to this section shall be resolved by final order of the
585 commission within one hundred eighty (180) days of the filing of
586 the complaint.

587 (e) The commission shall retain exclusive original
588 jurisdiction over customer complaints for those services that
589 continue to be regulated. For services no longer regulated, the

590 commission shall have exclusive original jurisdiction to interpret
591 and enforce the terms and conditions of customer service
592 agreements for telecommunications services, but it shall not
593 alter, set aside or refuse to enforce the rates, terms and
594 conditions thereof, either directly or indirectly. No other party
595 shall be allowed to participate in any such complaint proceeding,
596 except for the customer, legal counsel or other representative of
597 the customer, or the public utility involved.

598 (f) A public utility of the type defined in Section
599 77-3-3(d) (iii) which is regulated under the provisions of
600 paragraph (a) of this subsection shall not be required to file
601 financial, service quality or other information with the
602 commission. The calculation of the public utility regulatory tax
603 established in Section 77-3-87 shall be based upon ninety
604 thousandths of one percent (90/1000 of 1%) per year of the gross
605 revenues from the intrastate operations of such public utility
606 which is subject to regulation under the provision of paragraph
607 (a) of this subsection. In addition, such public utility shall
608 only be required to adhere to billing for retail
609 telecommunications services in compliance with the federal truth
610 in billing regulations prescribed by the Federal Communications
611 Commission.

612 (g) (i) In order to transition to the changes
613 effectuated by paragraph (a) of this subsection, the rates, terms
614 and conditions for products and services no longer subject to

615 regulation by the commission which were in effect with a specific
616 term immediately prior to July 1, 2006, shall remain in effect for
617 the duration of the specific term as to customers who subscribed
618 to such products or services prior to July 1, 2006. If no term
619 applied to such products or services at the time such customer
620 subscribed to such products or services, then the rates, terms and
621 conditions governing such products or services shall remain in
622 effect until a written customer service agreement becomes
623 effective as described in subparagraph (ii) of this paragraph (g).

624 (ii) Except as provided in subparagraph (i) of
625 this paragraph (g), the service provider shall offer existing and
626 new customers a written customer service agreement, which in the
627 case of new customers shall be delivered no later than thirty (30)
628 days after the initiation of service. The customer service
629 agreement shall include a provision advising the customer that he
630 has thirty (30) days from receipt in which to elect:

631 1. To terminate service with the service
632 provider by contacting such service provider within the thirty-day
633 time period, in which case the customer shall have the right to
634 pay off the account in the same manner and under the same rates,
635 terms and conditions as set forth in the written customer service
636 agreement provided to the customer, which written customer service
637 agreement shall relate back in its entirety to the date of a new
638 customer's request for service or the date the agreement was sent

639 to an existing customer, as applicable, and shall be in effect
640 until termination through pay off; or

641 2. To use the services of the service
642 provider or to otherwise continue the account with the service
643 provider after the thirty-day time period has elapsed, either of
644 which shall constitute the customer's assent to all the rates,
645 terms and conditions of the written customer service agreement.
646 The customer service agreement shall be deemed received three (3)
647 business days after deposit in the United States mail, first-class
648 delivery.

649 (iii) If any service provider desires to modify in
650 any respect any rates, terms or conditions of a customer service
651 agreement, it shall provide at least thirty (30) days' prior
652 written notice of the modification and the proposed effective date
653 to the customer. The customer service agreement shall include a
654 provision advising the customer that he has the option:

655 1. To terminate service with the service
656 provider by contacting such service provider prior to the
657 effective date, in which case the customer shall have the right to
658 pay off the account in the same manner and under the same rates,
659 terms and conditions as then in effect; or

660 2. To use the services of the service
661 provider or to otherwise continue the account with the service
662 provider on or after the effective date, either of which shall
663 constitute the customer's assent to the modified written customer

664 service agreement. The customer service agreement shall be deemed
665 received three (3) business days after deposit in the United
666 States mail, first-class delivery.

667 (h) Nothing herein shall change the obligation of those
668 public utilities described in Section 77-3-3(d)(iii) to obtain a
669 certificate of public convenience and necessity pursuant to this
670 chapter.

671 (5) With respect to any facility or contract for a facility
672 serving a customer under Section 77-3-271, nothing in this section
673 shall supersede the provisions of Section 77-3-271.

674 **SECTION 7.** Section 77-3-37, Mississippi Code of 1972, is
675 brought forward as follows:

676 77-3-37. (1) No public utility shall make any change in any
677 rate which has been duly established under this chapter, except as
678 provided in this chapter. A public utility seeking a change in
679 any rate or rates shall file with the secretary of the commission
680 and the executive director of the public utilities staff a notice
681 of intent to change rates. The commission may promulgate rules
682 and regulations providing for notice to customers of the filing by
683 any public utility for a rate increase. Routine changes in rates
684 and schedules that do not involve any substantial revenue
685 adjustment may go into effect after thirty (30) days' notice to
686 the commission or after such shorter period of notice as the
687 commission, for good cause shown, may allow. In all other cases,
688 the notice of intent shall contain a statement of the changes

689 proposed to be made in the rates then in force, the new level of
690 revenues sought, the reasons for the proposed changes and the date
691 proposed for such changes to become effective, which date shall
692 not be less than thirty (30) days after the date of filing. The
693 proposed changes may be shown by filing new schedules, by plainly
694 indicating the changes upon schedules filed and in force at the
695 time and kept open to public inspection or by such other manner as
696 will clearly indicate the rates to be changed and the rates
697 proposed. All direct testimony, exhibits and other information
698 which any utility will rely upon in support of the proposed
699 changes shall be filed concurrently with the filing of the notice
700 of intent. Such other data or documentation as the commission
701 shall request shall be supplied by such utility.

702 (2) The commission shall establish by rule and regulation a
703 standard requirement list of documentation to be filed with or to
704 be included in every notice of intent. With respect to any notice
705 of intent involving a major change in rates as defined in
706 subsection (8) of this section, the standard requirement list in
707 each case shall include:

708 (a) A copy of its charter or articles of incorporation,
709 if not already on file with the commission;

710 (b) A schedule of the present rates, fares, tolls,
711 charges or rentals in effect, and the changes it is desired to
712 make;

713 (c) A balance sheet of the utility prepared as of the
714 last day of the latest month in which data shall be readily
715 available;

716 (d) An actual operating statement setting forth revenue
717 and expenses by account numbers for the twelve (12) months ending
718 as the date of the balance sheet applicable to the utility filing
719 the notice of intent;

720 (e) A pro forma operating statement in the same form as
721 the actual operating statement showing estimate of revenue and
722 expenses for the twelve-month period beginning with the effective
723 date of the changed rates (i) without giving effect to the changed
724 rates and (ii) giving effect to the changed rates;

725 (f) A pro forma operating statement in the same form as
726 the actual operating statement for the same period giving effect
727 to the proposed changes in rates and adjusted for known changes in
728 the cost of operations;

729 (g) A statement showing the number of stations or
730 customers by classes affected by the proposed changes in rates,
731 the actual revenue under the old rates arising from each class and
732 the annual amount of the proposed increase or decrease applicable
733 to each class;

734 (h) A description of the utility's property, including
735 a statement of the original cost of the property and the cost to
736 the utility;

737 (i) A statement in full of the reasons why the change
738 in rates is desired so that the commission may clearly see the
739 justification therefor;

740 (j) The amount and kinds of stock authorized;

741 (k) The amount and kinds of stock issued and
742 outstanding;

743 (l) The number and amount of bonds authorized and the
744 number and amount issued;

745 (m) The rate and amount of dividends paid during the
746 five (5) previous fiscal years, and the amount of capital stock on
747 which dividends were paid each year;

748 (n) An analysis of surplus covering the period from the
749 close of the last calendar year for which an annual report has
750 been filed with the commission to the date of the balance sheet
751 attached to the notice.

752 (3) The commission may, by rule and regulation, require the
753 utility filing a notice of intent to change rates to supplement
754 the above data with such other information as the commission or
755 the public utilities staff may reasonably request.

756 (4) Unless the commission, upon application by a utility and
757 for good cause shown, shall enter an order waiving one or more of
758 the following requirements, then whenever a public utility files a
759 notice of intent wherein an increase in the level of annual
760 revenues in the amount of at least Fifteen Million Dollars

761 (\$15,000,000.00) is sought, the standard requirement list of
762 documentation shall include:

763 (a) Guidelines or directives as to the public utility's
764 presentation provided by a controlling affiliate, parent or
765 holding company;

766 (b) Marginal cost data;

767 (c) Alternate rate design;

768 (d) Conservation effectiveness;

769 (e) A properly prepared, complete, detailed lead-lag
770 study for the test year for the total company, Mississippi retail,
771 other retail jurisdictions and Federal Energy Regulatory
772 Commission wholesale rates in support of the public utility's
773 total working capital requirement contained therein, including all
774 working papers in support thereof;

775 (f) Direct testimony proposed to be offered at a
776 hearing.

777 (5) The notice of intent for major changes in rates as
778 defined in subsection (8) of this section shall state the test
779 period adopted by the public utility in support of its proposed
780 rate changes, which may be a twelve-month period beginning with
781 the proposed effective date of the rates proposed in the notice.
782 For the purpose of expediting the regulatory process, all public
783 utilities shall keep the commission advised of their plans or
784 needs for future requests for major rate changes.

785 (6) Within five (5) days after the notice of intent has been
786 filed, the utility shall serve a copy of the notice of intent
787 without documentation on all parties of record in its last
788 proceeding in which a major change in rates was sought, and shall
789 file a certificate of service with the commission. Thereafter, a
790 copy of all material filed by the utility shall be furnished by
791 the utility to those persons as may be provided for by the
792 commission's rules and regulations.

793 (7) (a) When the rates in a notice of intent are suspended
794 by commission order, the commission may issue a scheduling order
795 which establishes deadlines for submitting data requests,
796 responding to data requests, conducting prehearing conferences and
797 hearings and disposing of other matters necessary for the orderly
798 disposition of the case.

799 (b) The public utilities staff and all intervenors or
800 protestants shall file all direct testimony, exhibits and other
801 information which is to be relied upon regarding the proposed
802 changes within eighty (80) days from the filing of such notice of
803 intent. At the time of filing direct testimony, exhibits and
804 other information, each party filing such documents shall serve
805 copies of the documentation on all other parties of record and
806 shall file a certificate of service with the commission.

807 (8) The commission, for good cause shown, may, except in the
808 case of major changes, allow changes in rates to take effect at
809 the end of thirty (30) days from the date of the filing and the

810 notice of intent, or on the effective date set out in the notice,
811 without requiring any further proceedings, under such conditions
812 as it may prescribe. All such changes shall be immediately
813 indicated by such public utility upon its schedules. "Major
814 changes" means (a) an increase in rates which would increase the
815 annual revenues of such public utility more than the greater of
816 One Hundred Thousand Dollars (\$100,000.00) or two percent (2%),
817 but shall not include changes in rates allowed to go into effect
818 by the commission or made by the public utility pursuant to an
819 order of the commission after hearings held upon notice to the
820 public, or (b) a change in the rate design which has a significant
821 impact on a class or classes of ratepayers.

822 (9) For all major changes in rates and schedules as defined
823 in subsection (8) of this section, a public utility as defined in
824 Section 77-3-3(d)(iv) shall provide, not later than twenty (20)
825 days after filing the notice of intent to change rates, notice of
826 such proposed change within each affected customer's bill or
827 invoice and in a newspaper having general circulation in the area
828 where service is being provided by the public utility. The notice
829 shall state the date on which the notice of intent was filed with
830 the commission and shall include a financial impact statement
831 showing the average amount of increase to customers by class and
832 usage. The filing public utility shall file a copy of the notice,
833 along with a certificate with the executive secretary of the

834 commission, verifying that notice to each of the utility's
835 affected customers was provided in a timely manner.

836 (10) With respect to any facility or contract for a facility
837 serving a customer under Section 77-3-271, nothing in this section
838 shall supersede the provisions of Section 77-3-271.

839 **SECTION 8.** Section 77-3-39, Mississippi Code of 1972, is
840 brought forward as follows:

841 77-3-39. (1) Whenever there is filed with the commission by
842 any public utility any notice of intent to change rates pursuant
843 to the provisions of Section 77-3-37, the commission, if it so
844 orders within thirty (30) days after the date such notice of
845 intent is filed, shall hold a hearing to determine the
846 reasonableness and lawfulness of such rate change. The commission
847 shall hold such hearing in every case in which the change in rates
848 constitutes a major change in rates, as defined in Section
849 77-3-37(8). An abbreviated proceeding may satisfy this
850 requirement if the commission's order is supported by the data,
851 documentation and exhibits on file in the proceeding.

852 (2) Pending such hearing and the decision thereon, the
853 commission may, at any time before they become effective, suspend
854 the operation of such rate or rates, but not for a period longer
855 than one hundred twenty (120) days beyond the date of the filing
856 of the notice of intent, except as provided in subsections (15)
857 and (16) of this section.

858 (3) Prior to the hearing specifically provided for herein,
859 the commission shall direct all parties of record to appear before
860 a hearing examiner or member of the commission staff designated by
861 it, for a prehearing conference.

862 (4) Such prehearing conference shall be held at least twenty
863 (20) days before the date such rate case is set for hearing. The
864 commission shall establish a procedure for conducting such
865 prehearing conference, which procedure shall include: (a) setting
866 forth issues upon which no evidence shall be taken, except upon
867 offer of proof; (b) designation of specific issues upon which
868 evidence will be taken; and (c) specific areas of agreement to be
869 placed on the record, together with the original position of the
870 utility, the public utilities staff and the interested parties of
871 record.

872 (5) At such prehearing conference the commission, or its
873 designee, and the parties shall consider: (a) the simplification
874 of the issues; (b) the necessity or desirability of providing
875 additional information to the commission; (c) the possibility of
876 obtaining admissions or stipulations that will avoid unnecessary
877 proof; and (d) such other matters as may aid in the disposition of
878 the case.

879 (6) The commission may accept and adopt as its own, the
880 agreements between any or all interested parties of record, or any
881 portion thereof, resulting from the prehearing conference and

882 allow such changes in rates, without requiring any further
883 proceedings, to become effective immediately.

884 (7) The commission may enter its order reciting the action
885 taken at the prehearing conference, the agreements made by the
886 parties as to any matters considered and the limitation of the
887 issues for hearing to those not disposed of by admissions or
888 stipulations of counsel. If practicable, such order shall specify
889 the facts that appear without substantial controversy, including
890 the extent to which the rate change is not in controversy, and
891 shall also direct such further proceedings in the case as are
892 just.

893 (8) After the prehearing conference and no later than ten
894 (10) days prior to the date set by the commission for a hearing:

895 (a) The public utilities staff shall submit to the
896 commission all final exhibits, prepared testimony and evidence,
897 and shall serve copies on all interested parties of record, which
898 documents shall reflect the agreements made at the prehearing
899 conference;

900 (b) The utility shall provide an exhibit indicating
901 which portion, if any, of the public utilities staff's
902 presentation and that of other parties it is prepared to accept
903 and be free of future litigation, showing thereon the effect of
904 such acceptance on the applicant's request for such changes, and
905 shall serve copies on all parties of record;

906 (c) Parties other than the public utilities staff and
907 the utility shall submit their amended exhibits, prepared direct
908 testimony and evidence, reflecting the agreements made at the
909 prehearing conference, and shall serve copies on all parties of
910 record.

911 (9) If, after such hearing or abbreviated proceeding, the
912 commission shall find any such rate or rates to be unjust,
913 unreasonable or unreasonably discriminatory, or in anywise in
914 violation of the law, the same shall be set aside, and the
915 commission shall determine and fix by order such rate or rates as
916 will yield a fair rate of return to the public utility for
917 furnishing service to the public and shall make and file its
918 conclusions and findings of facts supporting such order. A copy
919 of such order shall be served upon the utility in the manner
920 provided in this chapter, and the rates fixed by the commission
921 shall be the legal rates until changed as prescribed by this
922 chapter.

923 (10) Notwithstanding anything to the contrary contained in
924 this chapter, the commission shall hold the hearing, render its
925 decision and enter its order not more than one hundred twenty
926 (120) days after the date of the filing of the said notice of
927 intent. If the commission does not make a final determination
928 concerning any schedule of rates within a period of one hundred
929 twenty 120) days after the date of the filing of the notice of
930 intent, and notwithstanding any order of suspension, except as

931 provided in subsections (15) and (16) of this section, the public
932 utility may put such suspended rate or rates into effect as
933 temporary rates by filing with the commission a bond in a
934 reasonable amount approved by the commission, with sureties
935 approved by the commission, conditioned upon the refund, in a
936 manner and to the parties to be prescribed by order of the
937 commission, of the amount of the excess, with lawful interest
938 thereon, if the rate or rates so put into effect are finally
939 determined to be excessive. There may be substituted for such
940 bond other arrangements satisfactory to the commission for the
941 protection of the parties interested. During any such period when
942 suspended rates are in effect under bond or other arrangement the
943 commission may, in its discretion, require that the public utility
944 involved shall keep an accurate account of payments made under the
945 rate or rates which the public utility has put into operation in
946 excess of the rate or rates in effect immediately prior thereto.

947 (11) In addition to the other remedies provided by law,
948 should there be an appeal of the commission's final order, the
949 commission shall allow the utility to place such portion of the
950 schedule of rates that is approved by the commission in such final
951 order into effect under refunding bond or other arrangements
952 satisfactory to the commission for the protection of parties
953 interested.

954 (12) Should the final judicial determination of an appeal of
955 a commission's final order rendered pursuant to subsection (9)

956 hereof result in a schedule of rates less than what the commission
957 allowed, the commission shall by order require the refund to
958 customers of any amounts collected by a utility under bond, or
959 other arrangements, during the appellate process which the courts
960 found to be in excess of the amounts that should have been allowed
961 by the commission in its final order. Such refunds shall be made
962 in full, including interest at the lawful rate and shall be made
963 within ninety (90) days after such final judicial determination.
964 In lieu of payment, the utility may credit the service account
965 with the amount due under this subsection if the consumer entitled
966 to the refund is, at that time, a consumer of the utility.

967 (13) Any bond, or other arrangements, approved by the
968 commission pursuant to subsection (11) of this section shall be in
969 such amount and with sufficient sureties to insure the prompt
970 payment of any refunds if the rates so put into effect are finally
971 determined by the commission or the courts to be excessive.

972 (14) For purposes of subsections (9), (11) and (12) of this
973 section, the term "final order" means an order of the commission
974 promulgated pursuant to subsection (9) of this section or, in the
975 event of a rehearing conducted pursuant to Section 77-3-65, means
976 an order of the commission promulgated subsequent to such
977 rehearing.

978 (15) No public utility may have more than one (1) major
979 change in rates in effect under refunding bond at the same time.
980 When a case is pending before the commission or before any court

981 which involves a major change in rates which are in effect under
982 refunding bond, and when the commission shall find that the
983 pending case involves an issue or issues necessary to be resolved
984 before the commission can effectively proceed with the hearing,
985 decision or order, the 120-day period provided for in subsections
986 (2) and (10) of this section may be enlarged by the commission, in
987 order to postpone the hearing on the notice of intent, decision or
988 final order in any subsequent rate case filed by the same utility,
989 until a final order has been rendered with respect to the prior
990 pending change in rates.

991 (16) When a notice of intent to change rates is filed with
992 the commission, said notice shall be assigned a docket number and
993 the commission shall examine the filing to determine if it
994 contains the standard requirement list of documentation set out in
995 Section 77-3-37(2) and (4), if applicable, and in any rules and
996 regulations adopted by the commission under Section 77-3-37(2).
997 Within five (5) days from the date said notice is filed, the
998 commission shall notify the filing utility in writing of its
999 failure to include with its notice any items included in such
1000 standard requirement list of documentation. Such notification
1001 shall specify the item or items not filed with said notice. The
1002 filing utility shall have ten (10) days from the date it receives
1003 said notification to file the omitted item or items with the
1004 commission. Provided, however, upon request by the filing utility
1005 made within said ten-day period, the commission shall grant, by

1006 order, such additional time as the filing utility may request, not
1007 to exceed thirty (30) additional days, within which to file the
1008 omitted item or items. If the filing utility fails to file the
1009 omitted item or items within said ten (10) days or within such
1010 extended period of time as the commission by order shall allow,
1011 the commission may refuse to consider any evidence in support of
1012 said item or items in making the commission's final determination
1013 concerning the schedule of rates filed with the notice.
1014 Notwithstanding the 120-day time period imposed on the commission
1015 to render its decision and enter its order under subsections (2)
1016 and (10) of this section and the 80-day time period imposed on the
1017 public utilities staff, intervenors or * * * protestors for the
1018 filing of all direct testimony, exhibits and other information
1019 under Section 77-3-37(7) (b), if the filing utility is granted
1020 additional time within which to file the omitted item or items,
1021 said 120-day and the 80-day time periods shall be extended by the
1022 number of days between the date of the commission's order granting
1023 the extension and the date such omitted items are filed with the
1024 commission, but such extension of said 120-day and 80-day time
1025 periods shall not exceed thirty (30) days.

1026 (17) With respect to any facility or contract for a facility
1027 serving a customer under Section 77-3-271, nothing in this section
1028 shall supersede the provisions of Section 77-3-271.

1029 **SECTION 9.** Section 77-3-41, Mississippi Code of 1972, is
1030 brought forward as follows:

1031 77-3-41. (1) Whenever the commission, after hearing had on
1032 reasonable notice, finds that the existing rates in effect and
1033 collected by any public utility are unjust, unreasonable,
1034 materially excessive or insufficient or unreasonably
1035 discriminatory, or in anywise in violation of any provision of
1036 law, the commission shall determine, and fix by order, the just
1037 and reasonable rates which will yield a fair rate of return to the
1038 utility for furnishing service, which rates will thereafter be
1039 observed and in force. Said rates shall thereupon become the
1040 legal rates to be charged and paid until changed.

1041 (2) The commission shall have power, when deemed by it
1042 necessary to prevent injury to the business or interest of the
1043 people or any public utility of this state in case of any
1044 emergency, to permit any public utility to alter, amend or suspend
1045 temporarily any existing rates, schedules and orders relating to
1046 or affecting any public utility or part of any public utility in
1047 this state except as provided in Section 77-3-42.

1048 (3) With respect to any facility or contract for a facility
1049 serving a customer under Section 77-3-271, nothing in this section
1050 shall supersede the provisions of Section 77-3-271.

1051 **SECTION 10.** Section 77-3-93, Mississippi Code of 1972, is
1052 brought forward as follows:

1053 77-3-93. (1) Whenever a utility purchases at wholesale from
1054 a nonutility generator or some nonassociated source all or a
1055 portion of its electric capacity and/or energy requirements for a

1056 period in excess of thirty (30) days, such utility shall be
1057 entitled to include as expense items in its revenue requirements,
1058 for the purpose of the calculation of its rates for retail
1059 service, the cost of such capacity and energy so purchased, and in
1060 addition to such cost, an amount representing a return on the
1061 capacity purchased over the period of the test year which is being
1062 used to calculate the revenue requirements. This amount shall be
1063 calculated using the return allowed by the commission as provided
1064 in Section 77-3-95. Notwithstanding the above or any provision of
1065 law to the contrary, for any renewable power purchase entered into
1066 after July 1, 2020, including, but not limited to, solar, wind,
1067 biomass or storage, a utility shall be entitled to incorporate
1068 renewable purchased costs in its rate base.

1069 (2) Nothing in Sections 77-3-91 through 77-3-95 shall be
1070 interpreted to allow a return on the energy purchased by a utility
1071 pursuant to its obligation to purchase energy under the federal
1072 Public Utilities Regulatory Policy Act of 1978.

1073 (3) With respect to any facility or contract for a facility
1074 serving a customer under Section 77-3-271, nothing in this section
1075 shall supersede the provisions of Section 77-3-271.

1076 **SECTION 11.** Section 77-3-95, Mississippi Code of 1972, is
1077 brought forward as follows:

1078 77-3-95. (1) Before a utility may receive the return on the
1079 cost of such capacity purchase, the utility shall report the
1080 purchase to the Public Utilities Staff and the Public Service

1081 Commission. The utility shall also send notice of the purchase to
1082 persons who have requested same and are on the list maintained for
1083 that purpose by the Secretary of the Public Service Commission.
1084 The Public Utilities Staff shall investigate the purchase to
1085 determine:

1086 (a) Whether the purchase is in the best interest of the
1087 utility and of the retail customers of the utility;

1088 (b) Whether the portion of the purchase designated as
1089 capacity or energy requirements, or both, is appropriate; and

1090 (c) Whether the return filed by the utility in the
1091 report of purchase is just and reasonable to the utility and to
1092 the retail customers of the utility.

1093 (2) Any third person may comment as deemed appropriate on
1094 the report, but if any third person desires a hearing, a written
1095 petition must be filed along with all supporting documentation,
1096 including all proposed testimony and exhibits supporting the
1097 contention that a hearing is needed and supporting the issues that
1098 should be considered. These issues may include any of the matters
1099 set forth in this section. The Public Utilities Staff shall fully
1100 review the information contained in the utility's report and the
1101 material submitted by the third party and shall report in writing
1102 to the commission.

1103 (3) If upon recommendation of the Public Utilities Staff or
1104 at the request of the third-party petitioner, or on its own
1105 initiative, the commission determines that a hearing should be

1106 held, then the commission will set a time for a hearing, determine
1107 the issues to be heard and set a schedule for such preliminary
1108 matters as it deems necessary for such hearing. If the commission
1109 determines that a hearing is not necessary on any or all of the
1110 issues set forth in this section, it may determine such issue or
1111 issues based upon the record before it and file its final order
1112 thereon which shall then be subject to appeal as provided in
1113 Sections 77-3-67 through 77-3-73.

1114 (4) With respect to any facility or contract for a facility
1115 serving a customer under Section 77-3-271, nothing in this section
1116 shall supersede the provisions of Section 77-3-271.

1117 **SECTION 12.** This act shall take effect and be in force from
1118 and after July 1, 2025.