

MISSISSIPPI CODE of 1972

\*\*\* Current through the 2011 Regular Session and 1st Extraordinary Session \*\*\*

TITLE 77. PUBLIC UTILITIES AND CARRIERS  
CHAPTER 3. REGULATION OF PUBLIC UTILITIES  
ARTICLE 1. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY; RATES; SERVICE

Miss. Code Ann. § 77-3-3 (2011)

§ 77-3-3. Definitions

As used in this chapter:

- (a) The term "corporation" includes a private or public corporation, a municipality, an association, a joint-stock association or a business trust.
- (b) The term "person" includes a natural person, a partnership of two (2) or more persons having a joint or common interest, a cooperative, nonprofit, limited dividend or mutual association, a corporation, or any other legal entity.
- (c) The term "municipality" includes any incorporated city, town or village.
- (d) The term "public utility" includes persons and corporations, or their lessees, trustees and receivers now or hereafter owning or operating in this state equipment or facilities for:
  - (i) The generation, manufacture, transmission or distribution of electricity to or for the public for compensation;
  - (ii) The transmission, sale, sale for resale, or distribution of natural, artificial, or mixed natural and artificial gas to the public for compensation by means of transportation, transmission, or distribution facilities and equipment located within this state; however, the term shall not include the production and gathering of natural gas, the sale of natural gas in or within the vicinity of the field where produced, or the distribution or sale of liquefied petroleum gas or the sale to the ultimate consumer of natural gas for use as a motor vehicle fuel;
  - (iii) The transmission, conveyance or reception of any message over wire, or by radio, or otherwise, of writing, signs, signals, pictures and sounds of all kinds by or for the public, where such service is offered to the public for compensation, and the furnishing, or the furnishing and maintenance, of equipment or facilities to the public, for compensation, for use as a private communications system or part thereof; however, no person or corporation not otherwise a public utility within the meaning of this chapter shall be deemed such solely because of engaging in this state in the furnishing, for private use as last aforementioned, and moreover, nothing in this chapter shall be construed to apply to television stations, radio stations, community television antenna services or broadband services; and
  - (iv) The transmission, distribution, sale or resale of water to the public for compensation, or the collection, transmission, treatment or disposal of sewage, or otherwise operating a sewage disposal service, to or for the public for compensation.

The term "public utility" shall not include any person not otherwise a public utility, who furnishes the services or commodity described in this paragraph only to himself, his employees or tenants as an incident of such employee service or tenancy, if such services are not sold or resold to such tenants or employees on a metered or consumption basis other than the submetering authorized under Section 77-3-97.

A public utility's business other than of the character defined in subparagraphs (i) through (iv) of this

paragraph is not subject to the provisions of this chapter.

(e) The term "rate" means and includes every compensation, charge, fare, toll, rental and classification, or the formula or method by which such may be determined, or any of them, demanded, observed, charged or collected by any public utility for any service, product or commodity described in this section, offered by it to the public, and any rules, regulations, practices or contracts relating to any such compensation, charge, fare, toll, rental or classification; however, the term "rate" shall not include charges for electrical current furnished, delivered or sold by one public utility to another for resale.

(f) The word "commission" shall refer to the Public Service Commission of the State of Mississippi, as now existing, unless otherwise indicated.

(g) The term "affiliated interest" or "affiliate" includes:

(i) Any person or corporation owning or holding, directly or indirectly, twenty-five percent (25%) or more of the voting securities of a public utility;

(ii) Any person or corporation in any chain of successive ownership of twenty-five percent (25%) or more of the voting securities of a public utility;

(iii) Any corporation of which fifteen percent (15%) or more of the voting securities is owned or controlled, directly or indirectly, by a public utility;

(iv) Any corporation twenty-five percent (25%) or more of the voting securities of which is owned or controlled, directly or indirectly, by any person or corporation that owns or controls, directly or indirectly, twenty-five percent (25%) or more of the voting securities of any public utility or by any person or corporation in any chain of successive ownership of twenty-five percent (25%) of such securities;

(v) Any person who is an officer or director of a public utility or of any corporation in any chain of successive ownership of fifteen percent (15%) or more of voting securities of a public utility; or

(vi) Any person or corporation that the commission, after notice and hearing, determines actually exercises any substantial influence or control over the policies and actions of a public utility, or over which a public utility exercises such control, or that is under a common control with a public utility, such control being the possession, directly or indirectly, of the power to direct or cause the discretion of the management and policies of another, whether such power is established through ownership of voting securities or by any other direct or indirect means.

However, the term "affiliated interest" or "affiliate" shall not include a joint agency organized pursuant to Section 77-5-701 et seq. nor a member municipality thereof.

(h) The term "facilities" includes all the plant and equipment of a public utility, used or useful in furnishing public utility service, including all real and personal property without limitation, and any and all means and instrumentalities in any manner owned, operated, leased, licensed, used, controlled, furnished or supplied for, by or in connection with its public utility business.

(i) The term "cost of service" includes operating expenses, taxes, depreciation, net revenue and operating revenue requirement at a claimed rate of return from public utility operations.

(j) The term "lead-lag study" includes an analysis to determine the amount of capital which investors in a public utility, the rates of which are subject to regulation under the provisions of this chapter, must provide to meet the day-to-day operating costs of the public utility prior to the time such costs are recovered from customers, and the measurement of (i) the lag in collecting from the customer the cost of providing service, and (ii) the lag in paying the cost of providing service by the public utility.

(k) The term "broadband services" means any service that consists of or includes a high-speed access capability to transmit at a rate that is not less than two hundred (200) kilobits per second either in the

upstream or downstream direction and either:

(i) Is used to provide access to the Internet, or

(ii) Provides computer processing, information storage, information content or protocol conversion, including any service applications or information service provided over such high-speed access service.

Nothing contained in this paragraph shall apply to retail services that are tariffed by the commission.

**HISTORY:** SOURCES: Codes, 1942, § 7716-01; Laws, 1956, ch. 372, § 1; Laws, 1968, ch. 502, § 1; Laws, 1983, ch. 467, § 4; Laws, 1988, ch. 310, § 1; Laws, 1990, ch. 530, § 41; Laws, 1993, ch. 304, § 1; Laws, 2002, ch. 513, § 2; Laws, 2005, ch. 305, § 1, eff from and after passage (approved Feb. 24, 2005.)