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Chapter No. 306
13/HR12/R1882CS
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HOUSE BILL NO. 894

Originated in House _____ Clerk

HOUSE BILL NO. 894

AN ACT TO MITIGATE THE INITIAL RATE IMPACTS ON CUSTOMERS OF CERTAIN NEWLY CONSTRUCTED ELECTRIC GENERATING FACILITIES BY AUTHORIZING THE PUBLIC SERVICE COMMISSION TO ESTABLISH A MULTI-YEAR NEW GENERATION RATE RECOVERY PLAN; AND FOR RELATED PURPOSES.

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

SECTION 1. The following shall be codified as Section 77-3-106, Mississippi Code of 1972:

77-3-106. (1) As used in this section:

(a) The term "rate mitigation plan" means a rate plan designed to mitigate the initial rate impacts of collecting the revenue requirements associated with the inclusion of a newly constructed generating facility in rate base and rates by establishing a plan for collecting or phasing in the revenue requirements over a period that is not to exceed ten (10) years.

(b) The term "generating facility" shall have the same meaning as defined in Section 77-3-103.

(2) A rate mitigation plan may be approved by the commission in connection with a generating facility that is owned, in whole

or in part, by an electric public utility whose rates are subject to the jurisdiction of the commission in accordance with the procedures contained in this section. The rate mitigation plan:

(a) Shall be proposed by an electric public utility through a separate petition or by an electric public utility in connection with any other rate proceeding pending before the commission related to a generating facility;

(b) Shall be implemented through rate schedules, rate riders, methods, formulas or other mechanisms, which have previously been proposed by the electric public utility or, if amended, are subsequently agreed to by the electric public utility;

(c) Shall not be requested or filed earlier than twelve (12) months prior to the beginning of the calendar year in which a generating facility is scheduled to be placed into commercial operation; and

(d) Shall be limited in scope to only the investment, expenses, revenues and rates of return associated with the construction, ownership and operation of a generating facility and all related assets, facilities and equipment incurred or to be incurred through the end of the rate mitigation period. The commission's review of a rate mitigation plan shall be conducted and all existing and applicable statutes and rules related thereto shall be enforced in a manner consistent with the limitations prescribed in this subsection (2)(d).

(3) Subject to the limitation contained in subsection (2)(d) above any filing by an electric public utility requesting a rate mitigation plan shall:

(a) Present a rate mitigation plan by providing the information required in Section 77-3-37(2)(e), (f) and (g) for each year of the proposed rate mitigation period; and

(b) Present a conventional rate recovery proposal without a rate mitigation plan by complying with Section 77-3-37(2).

(4) Subject to the limitation contained in subsection (2)(d) of this section, the commission's consideration of any rate mitigation plan shall be governed by all of the provisions of Article 1 and 2 of this Chapter 3, Title 77, except Sections 77-3-37(4) and 77-3-105(2)(c) and any rules promulgated and related thereto.

(5) In approving any rate mitigation plan, the commission:

(a) Shall include a finding establishing the initially approved rate base;

(b) Shall consider and evaluate the revenues, costs, rate base and returns applicable over the entire rate mitigation period; and

(c) Shall, for the rate mitigation period, allow recovery of a return, not to exceed the weighted cost of capital rate of return approved in the rate mitigation plan, on the balance of any unrecovered or deferred amounts accrued pursuant to

the rate mitigation plan for the account of either the electric public utility or the electric public utility's retail customers during the rate mitigation period.

(6) Following the implementation of any rate mitigation approved by the commission, revenue adjustments made during and in accordance with the rate mitigation plan shall not constitute changes in rates pursuant to Sections 77-3-37 or 77-3-39. The revenues, investment, expenses and rate of return applicable to a commission-approved rate mitigation plan shall, during the rate mitigation period, be excluded from the calculation of rates for the subject electric public utility in any other rate proceeding before the commission.

(7) The authority granted to the commission herein to implement a rate mitigation plan shall not be deemed to be in conflict of the requirements of Sections 77-3-33 and 77-3-43.

(8) Notwithstanding Section 77-3-41, Section 77-3-61, or any other provision of Title 77, any order implementing a rate mitigation plan under this article shall be irrevocable once there is a final order for which the time for all appeals has expired. A final order implementing a rate mitigation plan shall, during the rate mitigation period, be binding in all future regulatory proceedings affecting such generating facility or rates or charges associated with such generating facility. Neither the commission nor any other governmental authority established by Mississippi law may amend, modify, or terminate the rate mitigation plan by

any subsequent action or reduce, impair, postpone, terminate or otherwise adjust the charges established by the rate mitigation plan order until after the rate mitigation period has elapsed and such rate mitigation plan may then only be revised in accordance with Article 1 of this Chapter 3, Title 77. Notwithstanding anything contained herein to the contrary, nothing in this section shall diminish, or be construed to diminish, the power and authority of the commission in the event the generating facility is abandoned, cancelled or otherwise fails to become used and useful in the provision of electric service.

(9) The rates and charges in effect at the end of the rate mitigation period shall remain in effect after the rate mitigation plan unless and until modified in accordance with Article 1 of this Chapter 3, Title 77.

SECTION 2. The provisions of this act shall be deemed to be full and complete authority for the exercise of the powers therein granted.

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

PASSED BY THE HOUSE OF REPRESENTATIVES
February 8, 2013

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
February 14, 2013

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

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