

MUNICIPALLY OWNED UTILITIES:

The following is to provide municipal leaders with a basic overview of the Public Service Commission's ("Commission") jurisdiction within and immediately outside municipal areas. This is not an exhaustive explanation of every aspect of the Commission – municipal utility relationship, and is not legal advice. City leaders should consult with counsel regarding the unique issues that arise in individual jurisdictions.

Generally, the Commission has original and exclusive jurisdiction over the intrastate business and property of public utilities.¹ This includes control over the area of service, reliability, and rates;² however, the Mississippi Legislature has specific exemptions that the Commission must follow that affect municipal utilities.³

The Commission has no jurisdiction over municipal systems that serve within the city limits and within a one-mile corridor outside of the city limits,⁴ with the exception of gas pipeline safety⁵ and certain billing disputes.⁶ A municipal utility system that provides service to customers beyond the one-mile corridor is subject to the Commission's jurisdiction. However, Commission jurisdiction only applies to those customers beyond the one-mile corridor. Those municipal utilities that extend beyond city limits must apply for, and be granted, a certificate of public convenience and necessity from the Commission to serve the area(s) beyond one mile from the municipality's corporate boundaries.⁷ In such areas, the Commission has the authority to regulate all aspects of a municipal system that serves those customers, including the rates.⁸ A municipal utility may not expand beyond its certificated area without approval from the Commission.⁹ Commission approval must be granted for the initial charge of rates or if a municipal utility seeks to change the rates of customers beyond the one-mile corridor.

A facility certificate is required if the municipal utility seeks to construct any facility in the area beyond one mile from the municipal corporate boundaries for the generation and transmission of electricity to be used directly or indirectly for the furnishing of public utility service. A facility certificate is also required if the municipal utility plans construction of any facility beyond one mile from the municipal corporate boundaries that is projected to have capitalized costs in excess of \$10 million dollars or 10% of the utility's existing jurisdictional net plant investment.¹⁰

¹ [Miss. Code Ann. § 77-3-5.](#)

² [See generally, Miss. Code Ann. § 77-3-2.](#)

³ [Miss. Code Ann. § 77-3-1.](#)

⁴ [Miss. Code Ann. § 77-3-5.](#)

⁵ [Miss. Code Ann. § 77-11-101, et seq.](#)

⁶ Disputes between a public utility owned or operated by a municipality and a customer of said utility with regard to billing and/or services in excess of \$2,500.00 shall be subject to investigation, review, and arbitration by the Commission if the customer or utility petitions therefor. [Miss. Code Ann. § 77-3-6.](#)

⁷ In order for a municipality to serve beyond five miles from the municipal boundary, the municipality must obtain passage of local and private legislation at the Mississippi Legislature. *See*, [Miss. Code Ann. § 21-27-39.](#)

⁸ [Miss. Code Ann. § 77-3-13\(3\).](#) Note, however, that the Mississippi Supreme Court recently interpreted Miss. Code Ann. § 77-3-1 to exclude from Commission regulation municipal systems that were in place prior to the effective date of the Public Utilities Act, even if extending beyond one mile of the corporate limits. *City of Tchula v. Miss. Pub. Serv. Comm'n*, 187 So. 3d 597 (Miss. 2016).

⁹ [Miss. Code Ann. § 77-3-11.](#)

¹⁰ [RP 7.102.3.](#)