

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 2512

2015 Carryover

(BY DELEGATES WALTERS, R. PHILLIPS, J. NELSON,
CANTERBURY, R. SMITH, GEARHEART AND MARCUM)

[Introduced January 13, 2016; referred to the
Committee on Energy then the Judiciary.]

1 A BILL to amend and reenact §24-2-12 of the Code of West Virginia, 1931, as amended, relating
 2 to requiring the consent of the Public Service Commission before an electric utility subject
 3 to this chapter may retire or permanently shut-down an electric generating plant; and
 4 providing that the Public Service Commission require a contemporaneous and achievable
 5 plan by the utility to assure continuation of economical, adequate and reliable electricity
 6 power supply, before consenting to the retirement or shut-down.

Be it enacted by the Legislature of West Virginia:

1 That §24-2-12 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted to read as follows:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

**§24-2-12. What acts may not be done without consent of commission; consent in
 advance of exemption of transactions; when sale, etc., of franchises, mergers,
 etc., void.**

1 Unless the consent and approval of the Public Service Commission of West Virginia is first
 2 obtained: (a) No public utility subject to the provisions of this chapter, except railroads other than
 3 street railroads, may enter into any contract with any other utility to operate any line or plant of
 4 any other utility subject thereto, nor which will enable such public utility to operate their lines or
 5 plants in connection with each other, but this shall not be construed to prevent physical
 6 connections between utilities supplying the same service or commodity, for temporary purposes
 7 only, upon condition, however, that prompt notice thereof be given to the commission for such
 8 action, if any, as it may deem necessary, and thereafter the commission may require such
 9 connection to be removed or discontinued; (b) no public utility subject to the provisions of this
 10 chapter, except railroads other than street railroads, may purchase, lease, or in any other manner
 11 acquire control, direct or indirect, over the franchises, licenses, permits, plants, equipment,

12 business or other property of any other utility; (c) no public utility subject to the provisions of this
13 chapter, except railroads other than street railroads, may assign, transfer, lease, sell, or otherwise
14 dispose of its franchises, licenses, permits, plants, equipment, business or other property or any
15 part thereof; but this shall not be construed to prevent the sale, lease, assignment or transfer by
16 any public utility of any tangible personal property which is not necessary or useful, nor will
17 become necessary or useful in the future, in the performance of its duties to the public; (d) no
18 public utility subject to the provisions of this chapter, except railroads other than street railroads,
19 may, by any means, direct or indirect, merge or consolidate its franchises, licenses, permits,
20 plants, equipment, business or other property with that of any other public utility; (e) no public
21 utility subject to the provisions of this chapter, except railroads other than street railroads, may
22 purchase, acquire, take or receive any stock, stock certificates, bonds, notes or other evidence of
23 indebtedness of any other public utility; (f) no public utility subject to the provisions of this chapter,
24 except railroads other than street railroads, may, by any means, direct or indirect, enter into any
25 contract or arrangement for management, construction, engineering, supply or financial services
26 or for the furnishing of any other service, property or thing, with any affiliated corporation, person
27 or interest; (g) no person or corporation, whether or not organized under the laws of this state,
28 may acquire either directly or indirectly a majority of the common stock of any public utility
29 organized and doing business in this state; no electric utility subject to this chapter may retire or
30 permanently shut-down an electric generating plant.

31 The commission may grant its consent in advance or exempt from the requirements of this
32 section all assignments, transfers, leases, sales or other disposition of the whole or any part of
33 the franchises, licenses, permits, plants, equipment, business or other property of any public
34 utility, or any merger or consolidation thereof and every contract, purchase of stocks,
35 arrangement, transfer or acquisition of control, or other transaction referred to in this section, upon

36 proper showing that the terms and conditions thereof are reasonable and that neither party thereto
37 is given an undue advantage over the other, and do not adversely affect the public in this state.
38 In considering whether to grant its consent for the retirement or permanent shut-down of an
39 electric generating plant, the commission shall consider the impact of the retirement or shut-down
40 on the availability of economical, adequate and reliable electricity power supply for customers in
41 the state and, if the power supply is jeopardized by the retirement or permanent shut-down, before
42 granting its consent, the commission shall require a contemporaneous and achievable plan by
43 the utility to assure continuation of economical, adequate and reliable electricity power supply.

44 The commission shall prescribe such rules and regulations as, in its opinion, are
45 necessary for the reasonable enforcement and administration of this section, including the
46 procedure to be followed, the notice to be given of any hearing hereunder, if it deems a hearing
47 necessary, and after such hearing or in case no hearing is required, the commission shall, if the
48 public will be inconvenienced thereby, enter such order as it may deem proper and as the
49 circumstances may require, attaching thereto such conditions as it may deem proper, consent to
50 the entering into or doing of the things herein provided, without approving the terms and conditions
51 thereof, and thereupon it shall be lawful to do the things provided for in such order.

52 Every assignment, transfer, lease, sale or other disposition of the whole or any part of the
53 franchises, licenses, permits, plant, equipment, business or other property of any public utility, or
54 any merger or consolidation thereof and every contract, purchase of stock, arrangement, transfer
55 or acquisition of control or other transaction referred to in this section, or retirement or permanent
56 shut-down of an electric generating plant by any electric utility, made otherwise than as
57 hereinbefore provided shall be void to the extent that the interests of the public in this state are
58 adversely affected, but this shall not be construed to relieve any utility from any duty required by
59 this section.

NOTE: The purpose of this bill is to require the consent of the Public Service Commission before an electric utility subject to this chapter may retire or permanently shut-down an electric generating plant. The bill further provides that the Public Service Commission require a contemporaneous and achievable plan by the utility to assure continuation of economical, adequate and reliable electricity power supply, before consenting to the retirement or shut-down.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.