

# WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Enrolled

Committee Substitute

for

**Senate Bill 10**

SENATORS SYPOLT, CLEMENTS, RUCKER, SMITH,  
MARONEY, CLINE, AND GAUNCH, *original sponsors*  
[Passed March 10, 2018; in effect from passage]



1 AN ACT to amend and reenact §8-19-2 of the Code of West Virginia, 1931, as amended; to amend  
2 said code by adding thereto two new sections, designated §8-19-2a and §8-19-2b; to  
3 amend and reenact §16-13A-9 of said code; and to amend and reenact §24-2-1, §24-2-2,  
4 §24-2-3, and §24-2-4b of said code, all relating generally to the jurisdiction of the Public  
5 Service Commission; excluding the setting and adjustment of rates, fees, and charges of  
6 municipal power systems from the jurisdiction of the Public Service Commission; providing  
7 for a right of appeal by customers; providing public service districts may accept payments  
8 for all fees and charges due by credit or check card; providing procedures and guidance  
9 for utilization of this method of payment; and clarifying the commission's jurisdiction as  
10 modified by chapters 161 and 209, Acts of the Legislature, regular session, 2017, over  
11 Internet protocol-enabled service, voice-over Internet protocol-enabled service,  
12 stormwater services by a public service district, political subdivisions providing separate  
13 or combined water and/or sewer services, and certain telephone company transactions.

*Be it enacted by the Legislature of West Virginia:*

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 19. MUNICIPAL AND COUNTY WATERWORKS AND ELECTRIC POWER SYSTEMS.**

#### **PART II. LIMITATIONS ON SALE OR LEASE OF CERTAIN MUNICIPAL WATERWORKS.**

#### **§8-19-2. Contracts for purchase of electric power or energy by a municipality; definitions; requirements; payments; rates and charges.**

1 (a) For the purposes of this section:

2 (1) "Contract" means an agreement entered into by a municipality with any other party for  
3 the purchase of electric output, capacity, or energy from a project as defined herein;

4 (2) "Any other party" means any other legal entity, including, but not limited to, another  
5 municipality, political subdivision, public authority, agency, or instrumentality of any state or the

6 United States, a partnership, a limited partnership, a limited liability company, a corporation, an  
7 electric cooperative or an investor-owned utility existing under the laws of any state; and

8 (3) "Project" or "projects" means systems or facilities owned by another party and used for  
9 the generation, transmission, transformation, or supply of electric power, or any interest in them,  
10 whether an undivided interest as a tenant in common or otherwise, or any right to the output,  
11 capacity, or services thereof.

12 (b) In addition to the general authority to purchase electricity on a wholesale basis for  
13 resale to its customers, any municipality that owns and operates an electric power system under  
14 the provisions of this article may enter into a contract with any other party for the purchase of  
15 electricity from one or more projects located in the United States that provides that the contracting  
16 municipality is obligated to make payments required by the contract whether or not a project is  
17 completed, operable, or operating and notwithstanding the suspension, interruption, interference,  
18 reduction, or curtailment of the output of a project or the power and energy contracted for, and  
19 that the payments shall not be subject to any reduction, whether by offset or otherwise, and shall  
20 not be conditioned upon performance or nonperformance by any other party. The contract may  
21 provide that, in the event of a default by the municipality or any other party to the contract in the  
22 performance of each entity's obligations under the contract, any nondefaulting municipality or any  
23 other party to the contract shall on a pro rata basis succeed to the rights and interests of, and  
24 assume the obligations of, the defaulting party.

25 (c) Notwithstanding any other provisions of law, ordinance or charter provision to the  
26 contrary, a contract under §8-19-2(b) of this code may extend for more than 50 years or 50 years  
27 from the date a project is estimated to be placed into normal continuous operation and the  
28 execution and effectiveness of the contract is not subject to any authorizations or approvals by  
29 the state or any agency, commission, instrumentality, or political subdivision thereof except as  
30 otherwise specifically required by law.

31 (d) A contract §8-19-2(b) of this code may provide that payments by the municipality are  
32 made solely from and may be secured by a pledge of and lien upon revenues derived by the  
33 municipality from ownership and operation and that payments shall constitute an operating  
34 expense of the electric power system. No obligation under the contract shall constitute a legal or  
35 equitable pledge, charge, lien, or encumbrance upon any property of the municipality or upon any  
36 of its income, receipts, or revenues, except the revenues of the municipality's electric power  
37 system. Neither the faith and credit nor the taxing power of the municipality shall be pledged for  
38 the payment of any obligation under the contract.

39 (e) A municipality contracting under the provisions of §8-19-2(b) of this code is obligated  
40 to fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other  
41 services it sells, furnishes, or supplies through its electric power system in an amount sufficient  
42 to provide revenues adequate to meet its obligations under the contract and to pay any and all  
43 other amounts payable from or constituting a charge and lien upon the revenues, including the  
44 amounts necessary to pay the principal and interest on any municipal bonds issued related to its  
45 electric power system: *Provided*, That any change in the rates and charges of the municipality to  
46 the customers of the electric power system under the provisions of this section are subject to the  
47 provisions and requirements of §8-19-2a of this code and the obligations of the municipality under  
48 the contract are costs of providing electric service within the meaning of that section.

**§8-19-2a. Procedure for changing rates of municipal electric power systems; legislative findings.**

1 All rates, fees, and charges set by municipal electric power systems shall be just,  
2 reasonable, applied without unjust discrimination between or preference for any customer or class  
3 of customer, and based primarily on the costs of providing these services. All rates and charges  
4 shall be based upon the measured or reasonably estimated cost of service and the equitable  
5 sharing of those costs between customers based upon the cost of providing the service received  
6 by the customer, including a reasonable slant-in-service depreciation expense. The rates and

7 charges shall be adopted by the power system's governing board by municipal ordinance to be  
8 effective not sooner than 45 days after adoption. The 45-day waiting period may be waived by  
9 public vote of the governing body if that body finds and declares the public utility that is a political  
10 subdivision of the state to be in financial distress, such that the 45-day waiting period would be  
11 detrimental to the ability of the utility to deliver continued and compliant public services: *Provided,*  
12 That notice of intent to effect a rate change shall be specified on the monthly billing statement of  
13 the customers of the utility for the month next preceding the month in which the rate change is to  
14 become effective, and the governing body shall give its customers other reasonable notices as  
15 will allow filing of timely objections to the proposed rate change and full participation in municipal  
16 rate legislation through the provision of a public forum in which customers may comment upon  
17 the proposed rate change prior to an enactment vote. Notwithstanding the exclusion of municipal  
18 power systems' rates, fees, charges, and rate-making process from the jurisdiction of the Public  
19 Service Commission, municipal power systems shall submit information regarding their rates,  
20 fees, and charges to the commission as set forth in §24-2-9 of this code.

**§8-19-2b. Right of appeal by customers.**

1 Customers may appeal a rate increase to the circuit court of the county in which the  
2 municipality is located on the grounds that the rate ordinance or its passage does not comply with  
3 the provisions of this article by filing a petition, signed by at least 750 customers or 25 percent of  
4 the customers served by the municipal electric utility, whichever is fewer. Any petition challenging  
5 the ordinance must be filed within 30 days following the adoption of the rate ordinance.

**CHAPTER 16. PUBLIC HEALTH.**

**ARTICLE 13A. PUBLIC SERVICE DISTRICTS.**

**§16-13A-9. Rules; service rates and charges; discontinuance of service; required water  
and sewer connections; lien for delinquent fees.**

1 (a) (1) The board may make, enact, and enforce all needful rules in connection with the  
2 acquisition, construction, improvement, extension, management, maintenance, operation, care,

3 protection, and the use of any public service properties owned or controlled by the district. The  
4 board shall establish, in accordance with this article, rates, fees, and charges for the services and  
5 facilities it furnishes, which shall be sufficient at all times, notwithstanding the provisions of any  
6 other law or laws, to pay the cost of maintenance, operation, and depreciation of the public service  
7 properties and principal of and interest on all bonds issued, other obligations incurred under the  
8 provisions of this article, and all reserve or other payments provided for in the proceedings which  
9 authorized the issuance of any bonds under this article. The schedule of the rates, fees, and  
10 charges may be based upon:

11 (A) The consumption of water or gas on premises connected with the facilities, taking into  
12 consideration domestic, commercial, industrial, and public use of water and gas;

13 (B) The number and kind of fixtures connected with the facilities located on the various  
14 premises;

15 (C) The number of persons served by the facilities;

16 (D) Any combination of §16-13A-9(a)(1)(A), §16-13A-9(a)(1)(B), and §16-13A-9(a)(1)(C)  
17 of this code; or

18 (E) Any other basis or classification which the board may determine to be fair and  
19 reasonable, taking into consideration the location of the premises served and the nature and  
20 extent of the services and facilities furnished. However, no rates, fees or charges for stormwater  
21 services may be assessed against highways, road, and drainage easements or stormwater  
22 facilities constructed, owned, or operated by the West Virginia Division of Highways.

23 (2) The board of a public service district with at least 4,500 customers and annual  
24 combined gross revenue of \$3 million or more from its separate or combined water and sewer  
25 services may make, enact, and enforce all needful rules in connection with the enactment or  
26 amendment of rates, fees, and charges of the district. At a minimum, these rules shall provide for:

27 (A) Adequate prior public notice of the contemplated rates, fees, and charges by causing  
28 a notice of intent to effect such a change to be provided to the customers of the district for the

29 month immediately preceding the month in which the contemplated change is to be considered  
30 at a hearing by the board. Such notice shall include a statement that a change in rates, fees, and  
31 charges is being considered, the time, date, and location of the hearing of the board at which the  
32 change will be considered and that the proposed rates, fees, and charges are on file at the office  
33 of the district for review during regular business hours. Such notice shall be printed on, or mailed  
34 with, the monthly billing statement, or provided in a separate mailing.

35 (B) Adequate prior public notice of the contemplated rates, fees, and charges by causing  
36 to be published, after the first reading and approval of a resolution of the board considering such  
37 revised rates, fees, and charges but not less than one week prior to the public hearing of the  
38 board on such resolution, as a Class I legal advertisement, of the proposed action, in compliance  
39 with the provisions of §59-3-1 *et seq.* of this code. The publication area for publication shall be all  
40 territory served by the district. If the district provides service in more than one county, publication  
41 shall be made in a newspaper of general circulation in each county that the district provides  
42 service.

43 (C) The public notice of the proposed action shall summarize the current rates, fees, and  
44 charges and the proposed changes to said rates, fees and charges; the date, time, and place of  
45 the public hearing on the resolution approving such revised rates, fees, and charges and the place  
46 or places within the district where the proposed resolution approving the revised rates, fees, and  
47 charges may be inspected by the public. A reasonable number of copies of the proposed  
48 resolution shall be kept at the place or places and be made available for public inspection. The  
49 notice shall also advise that interested parties may appear at the public hearing before the board  
50 and be heard with respect to the proposed revised rates, fees and charges.

51 (D) The resolution proposing the revised rates, fees, and charges shall be read at two  
52 meetings of the board with at least two weeks intervening between each meeting. The public  
53 hearing may be conducted by the board prior to, or at, the meeting at which the resolution is  
54 considered for adoption on the second reading.

55 (E) Rates, fees, and charges approved by resolution of the board shall be forwarded in  
56 writing to the county commission with the authority to appoint the members of the board. The  
57 county commission shall publish notice of the proposed revised rates, fees, and charges by a  
58 Class I legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code.  
59 Within 45 days of receipt of the proposed rates, fees, and charges, the county commission shall  
60 take action to approve, modify, or reject the proposed rates, fees, and charges, in its sole  
61 discretion. If, after 45 days, the county commission has not taken final action to approve, modify,  
62 or reject the proposed rates, fees and charges, as presented to the county commission, shall be  
63 effective with no further action by the board or county commission. In any event, this 45-day period  
64 shall be mandatory unless extended by the official action of both the board proposing the rates,  
65 fees, and charges, and the appointing county commission.

66 (F) Enactment of the proposed or modified rates, fees, and charges shall follow an  
67 affirmative vote by the county commission and shall be effective no sooner than 45 days following  
68 action. The 45-day waiting period may be waived by public vote of the county commission only if  
69 the commission finds and declares the district to be in financial distress such that the 45-day  
70 waiting period would be detrimental to the ability of the district to deliver continued and compliant  
71 public services.

72 (G) The public service district, or a customer aggrieved by the changed rates or charges  
73 who presents to the circuit court a petition signed by at least 750 customers or 25 percent of the  
74 customers served by the public service district, whichever is fewer, when dissatisfied by the  
75 approval, modification, or rejection by the county commission of the proposed rates, fees, and  
76 charges under the provisions of this subdivision may file a complaint regarding the rates, fees,  
77 and charges resulting from the action of, or failure to act by, the county commission in the circuit  
78 court of the county in which the county commission sits: *Provided*, That any complaint or petition  
79 filed hereunder shall be filed within 30 days of the county commission's final action approving,  
80 modifying, or rejecting such rates, fees and charges, or the expiration of the 45-day period from

81 the receipt by the county commission, in writing, of the rates, fees, and charges approved by  
82 resolution of the board, without final action by the county commission to approve, modify, or reject  
83 such rates, fees, and charges, and the circuit court shall resolve said complaint: *Provided,*  
84 *however,* That the rates, fees, and charges so fixed by the county commission, or those adopted  
85 by the district upon which the county commission failed to act, shall remain in full force and effect,  
86 until set aside, altered, or amended by the circuit court in an order to be followed in the future.

87 (3) Where water, sewer, stormwater, or gas services, or any combination thereof, are all  
88 furnished to any premises, the schedule of charges may be billed as a single amount for the  
89 aggregate of the charges. The board shall require all users of services and facilities furnished by  
90 the district to designate on every application for service whether the applicant is a tenant or an  
91 owner of the premises to be served. If the applicant is a tenant, he or she shall state the name  
92 and address of the owner or owners of the premises to be served by the district. Notwithstanding  
93 the provisions of §24-3-8 of this code to the contrary, all new applicants for service shall deposit  
94 the greater of a sum equal to two twelfths of the average annual usage of the applicant's specific  
95 customer class or \$50 with the district to secure the payment of service rates, fees, and charges  
96 in the event they become delinquent as provided in this section. If a district provides both water  
97 and sewer service, all new applicants for service shall deposit the greater of a sum equal to two  
98 twelfths of the average annual usage for water service or \$50 and the greater of a sum equal to  
99 two twelfths of the average annual usage for wastewater service of the applicant's specific  
100 customer class or \$50. In any case where a deposit is forfeited to pay service rates, fees, and  
101 charges which were delinquent at the time of disconnection or termination of service, no  
102 reconnection or reinstatement of service may be made by the district until another deposit equal  
103 to the greater of a sum equal to two twelfths of the average usage for the applicant's specific  
104 customer class or \$50 has been remitted to the district. After 12 months of prompt payment  
105 history, the district shall return the deposit to the customer or credit the customer's account at a  
106 rate as the Public Service Commission may prescribe: *Provided,* That where the customer is a

107 tenant, the district is not required to return the deposit until the time the tenant discontinues service  
108 with the district. Whenever any rates, fees, rentals, or charges for services or facilities furnished  
109 remain unpaid for a period of 20 days after the same become due and payable, the user of the  
110 services and facilities provided is delinquent and the user is liable at law until all rates, fees, and  
111 charges are fully paid. The board may, under reasonable rules promulgated by the Public Service  
112 Commission, shut off and discontinue water or gas services to all delinquent users of either water  
113 or gas facilities, or both, 10 days after the water or gas services become delinquent: *Provided,*  
114 *however,* That nothing contained within the rules of the Public Service Commission shall be  
115 deemed to require any agents or employees of the board to accept payment at the customer's  
116 premises in lieu of discontinuing service for a delinquent bill.

117 (b) In the event that any publicly or privately owned utility, city, incorporated town, other  
118 municipal corporation or other public service district included within the district owns and operates  
119 separate water facilities, sewer facilities, or stormwater facilities, and the district owns and  
120 operates another kind of facility, either water or sewer, or both, as the case may be, then the  
121 district and the publicly or privately owned utility, city, incorporated town or other municipal  
122 corporation or other public service district shall covenant and contract with each other to shut off  
123 and discontinue the supplying of water service for the nonpayment of sewer or stormwater service  
124 fees and charges: *Provided,* That any contracts entered into by a public service district pursuant  
125 to this section shall be submitted to the Public Service Commission for approval. Any public  
126 service district which provides water and sewer service, water and stormwater service or water,  
127 sewer and stormwater service has the right to terminate water service for delinquency in payment  
128 of water, sewer or stormwater bills. Where one public service district is providing sewer service  
129 and another public service district or a municipality included within the boundaries of the sewer  
130 or stormwater district is providing water service and the district providing sewer or stormwater  
131 service experiences a delinquency in payment, the district or the municipality included within the  
132 boundaries of the sewer or stormwater district that is providing water service, upon the request of

133 the district providing sewer or stormwater service to the delinquent account, shall terminate its  
134 water service to the customer having the delinquent sewer or stormwater account: *Provided,*  
135 *however,* That any termination of water service must comply with all rules and orders of the Public  
136 Service Commission: *Provided further,* That nothing contained within the rules of the Public  
137 Service Commission shall be deemed to require any agents or employees of the public service  
138 districts to accept payment at the customer's premises in lieu of discontinuing service for a  
139 delinquent bill.

140 (c) Any district furnishing sewer facilities within the district may require or may, by petition  
141 to the circuit court of the county in which the property is located, compel or may require the Bureau  
142 for Public Health to compel all owners, tenants, or occupants of any houses, dwellings, and  
143 buildings located near any sewer facilities where sewage will flow by gravity or be transported by  
144 other methods approved by the Bureau for Public Health, including, but not limited to, vacuum  
145 and pressure systems, approved under the provisions of §16-1-9 of this code, from the houses,  
146 dwellings, or buildings into the sewer facilities, to connect with and use the sewer facilities and to  
147 cease the use of all other means for the collection, treatment, and disposal of sewage and waste  
148 matters from the houses, dwellings, and buildings where there is gravity flow or transportation by  
149 any other methods approved by the Bureau for Public Health, including, but not limited to, vacuum  
150 and pressure systems, approved under the provisions of §16-1-9 of this code and the houses,  
151 dwellings, and buildings can be adequately served by the sewer facilities of the district and it is  
152 declared that the mandatory use of the sewer facilities provided for in this subsection is necessary  
153 and essential for the health and welfare of the inhabitants and residents of the districts and of the  
154 state. If the public service district requires the property owner to connect with the sewer facilities  
155 even when sewage from dwellings may not flow to the main line by gravity and the property owner  
156 incurs costs for any changes in the existing dwellings' exterior plumbing in order to connect to the  
157 main sewer line, the public service district board shall authorize the district to pay all reasonable  
158 costs for the changes in the exterior plumbing, including, but not limited to, installation, operation,

159 maintenance, and purchase of a pump or any other method approved by the Bureau for Public  
160 Health. Maintenance and operation costs for the extra installation should be reflected in the users  
161 charge for approval of the Public Service Commission. The circuit court shall adjudicate the merits  
162 of the petition by summary hearing to be held not later than 30 days after service of petition to the  
163 appropriate owners, tenants, or occupants.

164 (d) Whenever any district has made available sewer facilities to any owner, tenant, or  
165 occupant of any house, dwelling, or building located near the sewer facility and the engineer for  
166 the district has certified that the sewer facilities are available to and are adequate to serve the  
167 owner, tenant, or occupant and sewage will flow by gravity or be transported by other methods  
168 approved by the Bureau for Public Health from the house, dwelling, or building into the sewer  
169 facilities, the district may charge, and the owner, tenant, or occupant shall pay, the rates and  
170 charges for services established under this article only after 30 days' notice of the availability of  
171 the facilities has been received by the owner, tenant, or occupant. Rates and charges for sewage  
172 services shall be based upon actual water consumption or the average monthly water  
173 consumption based upon the owner's, tenant's, or occupant's specific customer class.

174 (e) The owner, tenant, or occupant of any real property may be determined and declared  
175 to be served by a stormwater system only after each of the following conditions is met: (1) The  
176 district has been designated by the Environmental Protection Agency as an entity to serve a West  
177 Virginia Separate Storm Sewer System community, as defined in 40 C. F. R. §122.26; (2) the  
178 district's authority has been properly expanded to operate and maintain a stormwater system; (3)  
179 the district has made available a stormwater system where stormwater from the real property  
180 affects or drains into the stormwater system; and (4) the real property is located in the Municipal  
181 Separate Storm Sewer System's designated service area. It is further hereby found, determined,  
182 and declared that the mandatory use of the stormwater system is necessary and essential for the  
183 health and welfare of the inhabitants and residents of the district and of the state. The district may  
184 charge and the owner, tenant, or occupant shall pay the rates, fees, and charges for stormwater

185 services established under this article only after 30 days' notice of the availability of the  
186 stormwater system has been received by the owner. An entity providing stormwater service shall  
187 provide a tenant a report of the stormwater fee charged for the entire property and, if appropriate,  
188 that portion of the fee to be assessed to the tenant.

189 (f) All delinquent fees, rates, and charges of the district for either water facilities, sewer  
190 facilities, gas facilities, or stormwater systems or stormwater management programs are liens on  
191 the premises served of equal dignity, rank, and priority with the lien on the premises of state,  
192 county, school, and municipal taxes. Nothing contained within the rules of the Public Service  
193 Commission shall be deemed to require any agents or employees of the public service districts  
194 to accept payment at the customer's premises in lieu of discontinuing service for a delinquent bill.  
195 In addition to the other remedies provided in this section, public service districts are granted a  
196 deferral of filing fees or other fees and costs incidental to the bringing and maintenance of an  
197 action in magistrate court for the collection of delinquent water, sewer, stormwater, or gas bills. If  
198 the district collects the delinquent account, plus reasonable costs, from its customer or other  
199 responsible party, the district shall pay to the magistrate the normal filing fee and reasonable  
200 costs which were previously deferred. In addition, each public service district may exchange with  
201 other public service districts a list of delinquent accounts: *Provided*, That an owner of real property  
202 may not be held liable for the delinquent rates or charges for services or facilities of a tenant, nor  
203 may any lien attach to real property for the reason of delinquent rates or charges for services or  
204 facilities of a tenant of the real property unless the owner has contracted directly with the public  
205 service district to purchase the services or facilities.

206 (g) Anything in this section to the contrary notwithstanding, any establishment, as defined  
207 in §22-11-3 of this code, now or hereafter operating its own sewage disposal system pursuant to  
208 a permit issued by the Department of Environmental Protection, as prescribed by §22-11-11 of  
209 this code, is exempt from the provisions of this section.

210 (h) A public service district which has been designated by the Environmental Protection  
211 Agency as an entity to serve a West Virginia Separate Storm Sewer System community shall  
212 prepare an annual report detailing the collection and expenditure of rates, fees, or charges and  
213 make it available for public review at the place of business of the governing body and the  
214 stormwater utility main office.

215 (i) Notwithstanding any code provision to the contrary, a public service district may accept  
216 payment for all fees and charges due, in the form of a payment by a credit or check card  
217 transaction or a direct withdrawal from a bank account. The public service district may set a fee  
218 to be added to each transaction equal to the charge paid by the public service district for use of  
219 the credit or check card or direct withdrawal by the payor. The amount of such fee shall be  
220 disclosed to the payor prior to the transaction and no other fees for the use of a credit or check  
221 card or direct withdrawal may be imposed upon the payor and the whole of such charge or  
222 convenience fee shall be borne by the payor: *Provided*, That, to the extent a public service district  
223 desires to accept payments in the forms described in this subsection and does not have access  
224 to the equipment or receive the services necessary to do so, the public service district shall first  
225 obtain three bids for services and equipment necessary to affect the forms of transactions  
226 described in this subsection and use the lowest qualified bid received. Acceptance of a credit or  
227 check card or direct withdrawal as a form of payment shall comport with the rules and  
228 requirements set forth by the credit or check card provider or banking institution.

## **CHAPTER 24. PUBLIC SERVICE COMMISSION.**

### **ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.**

#### **§24-2-1. Jurisdiction of commission; waiver of jurisdiction.**

1 (a) The jurisdiction of the commission shall extend to all public utilities in this state and  
2 shall include any utility engaged in any of the following public services:

3 Common carriage of passengers or goods, whether by air, railroad, street railroad, motor,  
4 or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by land,

5 water, or air; transportation of oil, gas, or water by pipeline; transportation of coal and its  
6 derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping  
7 car or parlor car services; transmission of messages by telephone, telegraph, or radio; generation  
8 and transmission of electrical energy by hydroelectric or other utilities for service to the public,  
9 whether directly or through a distributing utility; supplying water, gas, or electricity by  
10 municipalities or others; sewer systems servicing 25 or more persons or firms other than the  
11 owner of the sewer systems: *Provided*, That if a public utility other than a political subdivision  
12 intends to provide sewer service by an innovative, alternative method, as defined by the federal  
13 Environmental Protection Agency, the innovative, alternative method is a public utility function  
14 and subject to the jurisdiction of the Public Service Commission regardless of the number of  
15 customers served by the innovative, alternative method; any public service district created under  
16 the provisions of §16-13A-1, *et seq.* of this code, except that the Public Service Commission will  
17 have no jurisdiction over the provision of stormwater services by a public service district; toll  
18 bridges, wharves, ferries; solid waste facilities; and any other public service: *Provided, however*,  
19 That natural gas producers who provide natural gas service to not more than 25 residential  
20 customers are exempt from the jurisdiction of the commission with regard to the provisions of  
21 such residential service: *Provided further*, That upon request of any of the customers of such  
22 natural gas producers, the commission may, upon good cause being shown, exercise such  
23 authority as the commission may deem appropriate over the operation, rates, and charges of such  
24 producer and for such length of time as the commission may consider to be proper.

25 (b) The jurisdiction of the commission over political subdivisions of this state providing  
26 separate or combined water and/or sewer services and having at least 4,500 customers and  
27 annual combined gross revenues of \$3 million or more that are political subdivisions of the state  
28 is limited to:

29 (1) General supervision of public utilities, as granted and described in §24-2-5 of this code;

30           (2) Regulation of measurements, practices, acts, or services, as granted and described in  
31 §24-2-7 of this code;

32           (3) Regulation of a system of accounts to be kept by a public utility that is a political  
33 subdivision of the state, as granted and described in §24-2-8 of this code;

34           (4) Submission of information to the commission regarding rates, tolls, charges, or  
35 practices, as granted and described in §24-2-9 of this code;

36           (5) Authority to subpoena witnesses, take testimony, and administer oaths to any witness  
37 in any proceeding before or conducted by the commission, as granted and described in §24-2-10  
38 of this code; and

39           (6) Investigation and resolution of disputes between a political subdivision of the state  
40 providing wholesale water and/or wastewater treatment or other services, whether by contract or  
41 through a tariff, and its customer or customers, including, but not limited to, rates, fees and  
42 charges, service areas and contested utility combinations: *Provided*, That any request for an  
43 investigation related to such a dispute that is based on the act or omission of the political  
44 subdivision shall be filed within 30 days of the act or omission of the political subdivision and the  
45 commission shall resolve said dispute within 120 days of filing. The 120-day period for resolution  
46 of the dispute may be tolled by the commission until the necessary information showing the basis  
47 of the rates, fees, and charges or other information as the commission considers necessary is  
48 filed: *Provided, however*, That the disputed rates, fees, and charges so fixed by the political  
49 subdivision providing separate or combined water and/or sewer services shall remain in full force  
50 and effect until set aside, altered or, amended by the commission in an order to be followed in the  
51 future.

52           (7) Customers of water and sewer utilities operated by a political subdivision of the state  
53 may bring formal or informal complaints regarding the commission's exercise of the powers  
54 enumerated in this section and the commission shall resolve these complaints.

55           (8) In the event that a political subdivision has a deficiency in either its bond revenue or  
56 bond reserve accounts, or is otherwise in breach of a bond covenant, any bond holder may  
57 petition the Public Service Commission for such redress as will bring the accounts to current  
58 status or otherwise resolve the breached covenant, and the commission shall have jurisdiction to  
59 fully resolve the alleged deficiency or breach.

60           (c) The commission may, upon application, waive its jurisdiction and allow a utility  
61 operating in an adjoining state to provide service in West Virginia when:

62           (1) An area of West Virginia cannot be practicably and economically served by a utility  
63 licensed to operate within the State of West Virginia;

64           (2) Said area can be provided with utility service by a utility which operates in a state  
65 adjoining West Virginia;

66           (3) The utility operating in the adjoining state is regulated by a regulatory agency or  
67 commission of the adjoining state; and

68           (4) The number of customers to be served is not substantial. The rates the out-of-state  
69 utility charges West Virginia customers shall be the same as the rate the utility is duly authorized  
70 to charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke  
71 its waiver of jurisdiction for good cause.

72           (d) Any other provisions of this chapter to the contrary notwithstanding:

73           (1) An owner or operator of an electric generating facility located or to be located in this  
74 state that has been designated as an exempt wholesale generator under applicable federal law,  
75 or will be so designated prior to commercial operation of the facility, and for which such facility  
76 the owner or operator holds a certificate of public convenience and necessity issued by the  
77 commission on or before July 1, 2003, shall be subject to §24-2-11c(e) through §24-2-11c(j) of  
78 this code as if the certificate of public convenience and necessity for such facility were a siting  
79 certificate issued under §24-2-11c of this code and shall not otherwise be subject to the jurisdiction

80 of the commission or to the provisions of this chapter with respect to such facility except for the  
81 making or constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

82 (2) Any person, corporation, or other entity that intends to construct or construct and  
83 operate an electric generating facility to be located in this state that has been designated as an  
84 exempt wholesale generator under applicable federal law, or will be so designated prior to  
85 commercial operation of the facility, and for which facility the owner or operator does not hold a  
86 certificate of public convenience and necessity issued by the commission on or before July 1,  
87 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from  
88 the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public  
89 convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or  
90 operator of an electric generating facility as is described in this subdivision for which a siting  
91 certificate has been issued by the commission shall be subject to §24-2-11c(e) through §24-2-  
92 11c(j) of this code and shall not otherwise be subject to the jurisdiction of the commission or to  
93 the provisions of this chapter with respect to such facility except for the making or constructing of  
94 a material modification thereof as provided in §24-2-1(d)(5) of this code.

95 (3) An owner or operator of an electric generating facility located in this state that had not  
96 been designated as an exempt wholesale generator under applicable federal law prior to  
97 commercial operation of the facility that generates electric energy solely for sale at retail outside  
98 this state or solely for sale at wholesale in accordance with any applicable federal law that  
99 preempts state law or solely for both such sales at retail and such sales at wholesale and that  
100 had been constructed and had engaged in commercial operation on or before July 1, 2003, shall  
101 not be subject to the jurisdiction of the commission or to the provisions of this chapter with respect  
102 to such facility, regardless of whether such facility subsequent to its construction has been or will  
103 be designated as an exempt wholesale generator under applicable federal law: *Provided*, That  
104 such owner or operator shall be subject to §24-2-1(d)(5) of this code if a material modification of  
105 such facility is made or constructed.

106           (4) Any person, corporation, or other entity that intends to construct or construct and  
107 operate an electric generating facility to be located in this state that has not been or will not be  
108 designated as an exempt wholesale generator under applicable federal law prior to commercial  
109 operation of the facility that will generate electric energy solely for sale at retail outside this state  
110 or solely for sale at wholesale in accordance with any applicable federal law that preempts state  
111 law or solely for both such sales at retail and such sales at wholesale and that had not been  
112 constructed and had not been engaged in commercial operation on or before July 1, 2003, shall,  
113 prior to commencement of construction of the facility, obtain a siting certificate from the  
114 commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public  
115 convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or  
116 operator of an electric generating facility as is described in this subdivision for which a siting  
117 certificate has been issued by the commission shall be subject to §24-2-11c(e) through §24-2-  
118 11c(j) of this code and shall not otherwise be subject to the jurisdiction of the commission or to  
119 the provisions of this chapter with respect to such facility except for the making or constructing of  
120 a material modification thereof as provided in §24-2-1(d)(5) of this code.

121           (5) An owner or operator of an electric generating facility described in this subsection shall,  
122 before making or constructing a material modification of the facility that is not within the terms of  
123 any certificate of public convenience and necessity or siting certificate previously issued for the  
124 facility or an earlier material modification thereof, obtain a siting certificate for the modification  
125 from the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of  
126 public convenience and necessity for the modification pursuant to the provisions of §24-2-11 of  
127 this code and, except for the provisions of §24-2-11c of this code, shall not otherwise be subject  
128 to the jurisdiction of the commission or to the provisions of this chapter with respect to such  
129 modification.

130           (6) The commission shall consider an application for a certificate of public convenience  
131 and necessity filed pursuant to §24-2-11 of this code to construct an electric generating facility

132 described in this subsection or to make or construct a material modification of such electric  
133 generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the  
134 application for the certificate of public convenience and necessity was filed with the commission  
135 prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.

136 (7) The limitations on the jurisdiction of the commission over, and on the applicability of  
137 the provisions of this chapter to, the owner or operator of an electric generating facility as imposed  
138 by and described in this subsection shall not be deemed to affect or limit the commission's  
139 jurisdiction over contracts or arrangements between the owner or operator of such facility and any  
140 affiliated public utility subject to the provisions of this chapter.

141 (e) The commission shall not have jurisdiction of Internet protocol-enabled service or  
142 voice-over Internet protocol-enabled service. As used in this subsection:

143 (1) "Internet protocol-enabled service" means any service, capability, functionality, or  
144 application provided using Internet protocol, or any successor protocol, that enables an end user  
145 to send or receive a communication in Internet protocol format, or any successor format,  
146 regardless of whether the communication is voice, data, or video.

147 (2) "Voice-over Internet protocol service" means any service that:

148 (i) Enables real-time two-way voice communications that originate or terminate from the  
149 user's location using Internet protocol or a successor protocol; and

150 (ii) Uses a broadband connection from the user's location.

151 (3) The term "voice-over Internet protocol service" includes any service that permits users  
152 to receive calls that originate on the public-switched telephone network and to terminate calls on  
153 the public-switched telephone network.

154 (f) Notwithstanding any other provisions of this article, the commission shall not have  
155 jurisdiction to review or approve any transaction involving a telephone company otherwise subject  
156 to §24-2-12 and §24-2-12a of this code if all entities involved in the transaction are under common  
157 ownership.

158 (g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power  
159 systems are most fairly and effectively regulated by the local governing body. Therefore,  
160 notwithstanding any other provisions of this article, the commission shall not have jurisdiction over  
161 the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the  
162 jurisdiction of the Public Service Commission over municipal power systems is limited to that  
163 granted specifically in this code.

**§24-2-2. General power of commission to regulate public utilities.**

1 (a) The commission may investigate all rates, methods, and practices of public utilities  
2 subject to the provisions of this chapter; to require them to conform to the laws of this state and  
3 to all rules, regulations and orders of the commission not contrary to law; and to require copies of  
4 all reports, rates, classifications, schedules, and timetables in effect and used by the public utility  
5 or other person to be filed with the commission, and all other information desired by the  
6 commission relating to the investigation and requirements, including inventories of all property in  
7 the form and detail as the commission prescribes. The commission may compel obedience to its  
8 lawful orders by mandamus or injunction or other proper proceedings in the name of the state in  
9 any circuit court having jurisdiction of the parties or of the subject matter, or the Supreme Court  
10 of Appeals directly, and the proceedings shall have priority over all pending cases. The  
11 commission may change any intrastate rate, charge, or toll which is unjust or unreasonable or  
12 any interstate charge with respect to matters of a purely local nature which have not been  
13 regulated, by or pursuant to, an act of Congress and may prescribe a rate, charge, or toll that is  
14 just and reasonable, and change or prohibit any practice, device, or method of service in order to  
15 prevent undue discrimination or favoritism between persons and between localities and between  
16 commodities for a like and contemporaneous service. But in no case may the rate, toll, or charge  
17 be more than the service is reasonably worth, considering the cost of the service. Every order  
18 entered by the commission shall continue in force until the expiration of the time, if any, named  
19 by the commission in the order, or until revoked or modified by the commission, unless the order

20 is suspended, modified, or revoked by order or decree of a court of competent jurisdiction:  
21 *Provided*, That in the case of utilities used by emergency shelter providers, the commission shall  
22 prescribe rates, charges or tolls that are the lowest available. "Emergency shelter provider" means  
23 any nonprofit entity which provides temporary emergency housing and services to the homeless  
24 or to victims of domestic violence or other abuse.

25 (b) Notwithstanding any other provision of this code to the contrary, rates are not  
26 discriminatory if, when considering the debt costs associated with a future water or sewer project  
27 which would not benefit existing customers, the commission establishes rates which ensure that  
28 the future customers to be served by the new project are solely responsible for the debt costs  
29 associated with the project.

30 (c) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the  
31 commission over water and/or sewer utilities that are political subdivisions of the state providing  
32 a separate or combined services and having at least 4,500 customers and annual combined gross  
33 revenues of \$3 million or more is limited to those powers enumerated in §24-2-1(b) of this code.

34 (d) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the  
35 commission does not extend over the setting or adjustment of rates, fees, and charges of  
36 municipal power systems. The rates, fees, charges and rate-making process of municipal power  
37 systems is governed by the provisions of §8-19-2a of this code.

**§24-2-3. General power of commission with respect to rates.**

1 (a) The commission may enforce, originate, establish, change, and promulgate tariffs,  
2 rates, joint rates, tolls, and schedules for all public utilities except for municipal power systems  
3 and water and/or sewer utilities that are political subdivisions of this state providing a separate or  
4 combined services and having at least 4,500 customers and annual combined gross revenues of  
5 \$3 million or more: *Provided*, That the commission may exercise such rate authority over  
6 municipally owned natural gas utilities or a municipally owned water and/or sewer utility having  
7 less than 4,500 customers or annual combined gross revenues of less than \$3 million only under

8 the circumstances and limitations set forth in §24-2-4b of this code, and subject to the provisions  
9 set forth in §24-2-3(b) of this code. And whenever the commission, after hearing, finds any existing  
10 rates, tolls, tariffs, joint rates, or schedules enacted or maintained by a utility regulated under the  
11 provisions of this section to be unjust, unreasonable, insufficient, or unjustly discriminatory or  
12 otherwise in violation of any of the provisions of this chapter, the commission shall by an order fix  
13 reasonable rates, joint rates, tariffs, tolls, or schedules to be followed in the future in lieu of those  
14 found to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation  
15 of any provisions of law, and the commission, in fixing the rate of any railroad company, may fix  
16 a fair, reasonable, and just rate to be charged on any branch line thereof, independent of the rate  
17 charged on the main line of that railroad.

18 (b) Any complaint filed with the commission by a resale or wholesale customer of a  
19 municipally owned water and/or sewer utility having less than 4,500 customers or annual  
20 combined gross revenue of less than \$3 million concerning rates, fees, or charges applicable to  
21 such resale or wholesale customer shall be filed within 30 days of the enactment by the governing  
22 body of the political subdivision of an ordinance changing rates, fees, or charges for such service.  
23 The commission shall resolve said complaint within 120 days of filing. The 120-day period for  
24 resolution of the complaint may be tolled by the commission until the necessary information  
25 showing the basis of the rates, fees, charges, and other information as the commission considers  
26 necessary is filed: *Provided*, That rates, fees, and charges so fixed by the political subdivision  
27 providing separate or combined water and/or sewer services shall remain in full force and effect  
28 until set aside, altered, or amended by the commission in an order to be followed in the future:  
29 *Provided, however*, That the commission shall have no authority to order refunds for amounts  
30 collected during the pendency of the complaint proceeding unless the rates, fees, or charges so  
31 enacted by the governing body were enacted subject to refund under the provisions of §24-2-  
32 4b(d)(2) or §24-2-4b(g) of this code.

33 (c) In determining just and reasonable rates, the commission may audit and investigate  
34 management practices and policies, or have performed an audit and investigation of such  
35 practices and policies, in order to determine whether the utility is operating with efficiency and is  
36 utilizing sound management practices. The commission shall adopt rules and regulations setting  
37 forth the scope, frequency, and application of such audits and investigations to the various utilities  
38 subject to its jurisdiction. The commission may include the cost of conducting the management  
39 audit in the cost of service of the utility.

40 (d) In determining just and reasonable rates, the commission shall investigate and review  
41 transactions between utilities and affiliates. The commission shall limit the total return of the utility  
42 to a level which, when considered with the level of profit or return the affiliate earns on transactions  
43 with the utility, is just and reasonable.

**§24-2-4b. Procedures for changing rates of electric and natural gas cooperatives, local  
exchange services of telephone cooperatives, and municipally operated public  
utilities.**

1 (a) The rates and charges of electric cooperatives, natural gas cooperatives and municipal  
2 water and/or sewer utilities that are political subdivisions of the state having less than 4,500  
3 customers or annual combined gross revenues of less than \$3 million, except for municipally  
4 operated commercial solid waste facilities as defined in §22-15-2 of this code, and the rates and  
5 charges for local exchange services provided by telephone cooperatives are not subject to the  
6 rate approval provisions of §24-2-4 or §24-2-4a of this code, but are subject to the limited rate  
7 provisions of this section.

8 (b) All rates and charges set by electric cooperatives, natural gas cooperatives, and  
9 municipally operated public utilities that are political subdivisions of the state providing water,  
10 sewer, and/or natural gas services that are subject to the provisions of this section and all rates  
11 and charges for local exchange services set by telephone cooperatives shall be just, reasonable,  
12 applied without unjust discrimination between or preference for any customer or class of customer

13 and based primarily on the costs of providing these services. All rates and charges shall be based  
14 upon the measured or reasonably estimated cost of service and the equitable sharing of those  
15 costs between customers based upon the cost of providing the service received by the customer,  
16 including a reasonable plant-in-service depreciation expense. The rates and charges shall be  
17 adopted by the electric, natural gas, telephone cooperative, or political subdivision's governing  
18 board or body and, in the case of the municipally operated public utility, by municipal ordinance  
19 to be effective not sooner than 45 days after adoption. The 45-day waiting period may be waived  
20 by public vote of the governing body if that body finds and declares the public utility that is a  
21 political subdivision of the state to be in financial distress such that the 45-day waiting period  
22 would be detrimental to the ability of the utility to deliver continued and compliant public services:  
23 *Provided*, That notice of intent to effect a rate change shall be specified on the monthly billing  
24 statement of the customers of the utility for the month next preceding the month in which the rate  
25 change is to become effective and the utility governing body shall give its customers and, in the  
26 case of a cooperative, its customers, members, and stockholders, other reasonable notices as  
27 will allow filing of timely objections to the proposed rate change and full participation in municipal  
28 rate legislation through the provision of a public forum in which customers may comment upon  
29 the proposed rate change prior to an enactment vote. The rates and charges or ordinance shall  
30 be filed with the commission, together with any information showing the basis of the rates and  
31 charges and other information as the commission considers necessary. Any change in the rates  
32 and charges with updated information shall be filed with the commission. If a petition, as set out  
33 in §24-2-4b(c)(1), §24-2-4b(c)(2), or §24-2-4b(c)(3) of this code, is received and the electric  
34 cooperative, natural gas cooperative, or telephone cooperative or municipality has failed to file  
35 with the commission the rates and charges with information showing the basis of rates and  
36 charges and other information as the commission considers necessary, the suspension period  
37 limitation of 120 days and the 100-day period limitation for issuance of an order by a hearing  
38 examiner, as contained in §24-2-4b(d) and §24-2-4b(e) of this code, is tolled until the necessary

39 information is filed. The electric cooperative, natural gas cooperative, telephone cooperative or  
40 municipality shall set the date when any new rate or charge is to go into effect.

41 (c) The commission shall review and approve or modify the rates and charges of electric  
42 cooperatives, natural gas cooperatives, telephone cooperatives, or municipal natural gas utilities  
43 and municipally owned water and/or sewer utilities that are political subdivisions of the state and  
44 having less than 4,500 customers or annual combined revenues of less than \$3 million upon the  
45 filing of a petition within 30 days of the adoption of the ordinance or resolution changing the rates  
46 or charges by:

47 (1) Any customer aggrieved by the changed rates or charges who presents to the  
48 commission a petition signed by not less than 25 percent of the customers served by the  
49 municipally operated natural gas public utility or municipally owned water and/or sewer utility or  
50 25 percent of the membership of the electric, natural gas, or telephone cooperative residing within  
51 the state;

52 (2) Any customer who is served by a municipally owned natural gas public utility and who  
53 resides outside the corporate limits and who is affected by the change in the rates or charges and  
54 who presents to the commission a petition alleging discrimination between customers within and  
55 without the municipal boundaries. The petition shall be accompanied by evidence of  
56 discrimination; or

57 (3) Any customer or group of customers of the municipally owned natural gas public utility  
58 who is affected by the change in rates who reside within the municipal boundaries and who  
59 present a petition to the commission alleging discrimination between a customer or group of  
60 customers and other customers of the municipal utility. The petition shall be accompanied by  
61 evidence of discrimination.

62 (d) (1) The filing of a petition with the commission signed by not less than 25 percent of  
63 the customers served by the municipally owned natural gas public utility or a municipally owned  
64 water and/or sewer utility having less than 4,500 customers or annual combined gross revenues

65 of less than \$3 million or 25 percent of the membership of the electric, natural gas, or telephone  
66 cooperative residing within the state under §24-2-4b(c) of this code shall suspend the adoption of  
67 the rate change contained in the ordinance or resolution for a period of 120 days from the date  
68 the rates or charges would otherwise go into effect or until an order is issued as provided herein.

69 (2) Upon sufficient showing of discrimination by customers outside the municipal  
70 boundaries or a customer or a group of customers within the municipal boundaries under a petition  
71 filed under §24-2-4b(c)(2) or §24-2-4b(c)(3) of this code, the commission shall suspend the  
72 adoption of the rate change contained in the ordinance for a period of 120 days from the date the  
73 rates or charges would otherwise go into effect or until an order is issued as provided herein. A  
74 municipal rate ordinance enacted pursuant to the provisions of this section and municipal charter  
75 or state code that establishes or proposes a rate increase that results in an increase of less than  
76 25 percent of the gross revenue of the utility shall be presumed valid and rates shall be allowed  
77 to go into effect, subject to refund, upon the date stated in that ordinance. Any refund determined  
78 to be due and owing as a result of any difference between any final rates approved by the  
79 commission and the rates placed into effect subject to refund shall be refunded as a credit against  
80 each customer's account for a period of up to six months after entry of the commission's final  
81 order. Any remaining balance which is not fully credited by credit within six months after entry of  
82 the commission's final order shall be directly refunded to the customer by check. In the case of  
83 rates established or proposed that increase by more than 25 percent of the gross revenue of the  
84 municipally operated public utility, the utility may apply for, and the commission may grant, a  
85 waiver of the suspension period and allow rates to be effective upon enactment.

86 (e) The commission shall forthwith appoint a hearing examiner from its staff to review the  
87 grievances raised by the petitioners. The hearing examiner shall conduct a public hearing and  
88 shall, within 100 days from the date the rates or charges would otherwise go into effect, unless  
89 otherwise tolled as provided in §24-2-4b(b) of this code, issue an order approving, disapproving,

90 or modifying, in whole or in part, the rates or charges imposed by the electric, natural gas, or  
91 telephone cooperative or by the municipally operated public utility pursuant to this section.

92 (f) Upon receipt of a petition for review of the rates under the provisions of §24-2-4b(c) of  
93 this code, the commission may exercise the power granted to it under the provisions of §24-2-3  
94 of this code, consistent with the applicable rate provisions of §8-19-4 of this code and §16-13-16  
95 of this code. The commission may determine the method by which the rates are reviewed and  
96 may grant and conduct a de novo hearing on the matter if the customer, electric, natural gas, or  
97 telephone cooperative or municipality requests a hearing.

98 (g) The commission may, upon petition by an electric, natural gas, or telephone  
99 cooperative or municipal natural gas public utility or a municipally owned water and/or sewer  
100 utility, having less than 4,500 customers or annual combined gross revenues of less than \$3  
101 million allow an interim or emergency rate to take effect, subject to refund or future modification,  
102 if it is determined that the interim or emergency rate is necessary to protect the municipality from  
103 financial hardship attributable to the purchase of the utility commodity sold, or the commission  
104 determines that a temporary or interim rate increase is necessary for the utility to avoid financial  
105 distress. In such cases, the commission shall waive the 45-day waiting period provided for in §24-  
106 2-4b(b) of this code and the 120-day suspension period provided for in §24-2-4b(d) of this code.

107 (h) The commission shall, upon written request of the governing body of a political  
108 subdivision, provide technical assistance to the governing body in its deliberations regarding a  
109 proposed rate increase.

110 (i) Notwithstanding any other provision, the commission has no authority or responsibility  
111 with regard to the regulation of rates, income, services, or contracts by municipally operated public  
112 utilities for services which are transmitted and sold outside of the State of West Virginia.

113 (j) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the  
114 commission over water and/or sewer utilities that are political subdivisions of the state and having

115 at least 4,500 customers and annual gross combined revenues of \$3 million or more shall be  
116 limited to those powers enumerated in §24-2-1(b) of this code.

117 (k) Notwithstanding any other provision of this code to the contrary, the jurisdiction of the  
118 commission does not extend over the setting and adjustment of the rates, fees, and charges of  
119 municipal power systems. The rates, fees, charges, and rate-making process of municipal power  
120 systems shall be governed by the provisions of §8-19-2a of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....  
*Chairman, Senate Committee*

.....  
*Chairman, House Committee*

Originated in the Senate.

In effect from passage.

.....  
*Clerk of the Senate*

.....  
*Clerk of the House of Delegates*

.....  
*President of the Senate*

.....  
*Speaker of the House of Delegates*

\_\_\_\_\_

The within ..... this the.....  
Day of ....., 2018.

.....  
*Governor*