

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 882

By Senators Phillips and Hart

[Introduced March 24, 2025; referred
to the Committee on Energy, Industry, and Mining;
and then to the Committee on Finance]

1 A BILL to amend and reenact §24-2-3 and §24-2-4 of the Code of West Virginia, 1931, as
2 amended, relating to providing that an electric utility rate or fee increase that is not in effect
3 by November 20 in any year may not take effect earlier than April 1 of the subsequent year.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§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 and
3 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 of
15 any provisions of law, and the commission, in fixing the rate of any railroad company, may fix a fair,
16 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: Provided, however, That the commission may not
18 enforce, originate, establish, or promulgate any rate or fee increase of an electric utility subject to
19 his chapter that is not in effect by November 20 in any year that takes effect earlier than April 1 of
20 the subsequent year.

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

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

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

§24-2-4. Procedure for changing rates.

1 (a) No public utility subject to this chapter, except those utilities subject to the provisions
2 of section four-b of this article, shall change, suspend or annul any rate, joint rate, charge, rental or
3 classification except after thirty days' notice to the commission and the public, which notice shall
4 plainly state the changes proposed to be made in the schedule then in force and the time when the
5 changed rates or charges shall go into effect; but the commission may enter an order suspending
6 the proposed rate as hereinafter provided. The proposed changes shall be shown by printing new
7 schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to
8 public inspection: *Provided*, That the commission may, in its discretion, and for good cause shown,
9 allow changes upon less time than the notice herein specified, or may modify the requirements of
10 this section in respect to publishing, posting and filing of tariffs, either by particular instructions or
11 by general order.

12 (b) Whenever there shall be filed with the commission any schedule stating a change in the
13 rates or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint
14 classification or any new individual or joint regulation or practice affecting any rate or charge, the
15 commission shall have authority, either upon complaint or upon its own initiative without complaint,
16 to enter upon a hearing concerning the propriety of such rate, charge, classification, regulation or
17 practice; and, if the commission so orders, it may proceed without answer or other form of pleading
18 by the interested parties, but upon reasonable notice, and, pending such hearing and the decision
19 thereon, the commission, upon filing with such schedule and delivering to the public utility affected
20 thereby a statement in writing of its reasons for such suspension, may suspend the operation of
21 such schedule and defer the use of such rate, charge, classification, regulation or practice, but not
22 for a longer period than one hundred and twenty days beyond the time when such rate, charge,
23 classification, regulation or practice would otherwise go into effect; and after full hearing, whether
24 completed before or after the rate, charge, classification, regulation or practice goes into effect, the
25 commission may make such order in reference to such rate, charge, classification, regulation or

practice as would be proper in a proceeding initiated after the rate, charge, classification, regulation or practice had become effective: *Provided*, That if any such hearing and decision thereon cannot be concluded within the period of suspension, as above stated, such rate, charge, classification, regulation or practice shall go into effect at the end of such period. In such case the commission may require such public utility to enter into a bond in an amount deemed by the commission to be reasonable and conditioned for the refund to the persons or parties entitled thereto of the amount of the excess, plus interest at the rate of not less than seven percent per annum, as may be specified by the commission, if such rate so put into effect is subsequently determined to be higher than those finally fixed for such utility. In specifying the applicable interest rate, the commission shall be guided by the interest rate which such public utility would in all probability have to agree to pay if such public utility at that time borrowed in the marketplace a sum of money equivalent to the amount of money the commission estimates the increase in rates will produce between the effective date of such increase and the anticipated date the rates will be finally fixed for such public utility, it being intended that a public utility should be discouraged from imposing higher rates than it should reasonably anticipate will be finally fixed as a means in effect of borrowing money at a rate of interest less than such public utility would have to agree to pay if it borrowed money in the marketplace. No such accrued interest paid on any such refund shall be deemed part of the cost of doing business in a subsequent application for changing rates or any decision thereon. At any hearing involving a rate sought to be increased or involving the change of any fare, charge, classification, regulation or practice, the burden of proof to show that the increased rate or proposed increased rate, or the proposed change of fare, charge, classification, regulation or practice is just and reasonable shall be upon the public utility making application for such change. When in any case pending before the commission all evidence shall have been taken, and the hearing completed, the commission shall, within three months, render a decision in such case.

(c) Where more than twenty members of the public are affected by a proposed change in

rates, it shall be a sufficient notice to the public within the meaning of this section if such notice is published as a Class II legal advertisement in compliance with the provision of article three, chapter fifty-nine of this code, and the publication area for such publication shall be the community where the majority of the resident members of the public affected by such change reside or, in case of nonresidents, have their principal place of business within this state. The provisions of this section shall expire on and be of no further force and effect after June 30, 1981, except that as to any case pending on said date in which the suspension period has expired and rates are in effect under bond such case shall be proceeded with in accordance with this section; as to any other case pending on said date, the commission shall treat the case as filed anew on July 1, 1981, except that it shall not be necessary for any new process or notice to be served or published.

(d) Notwithstanding any provision in this chapter to the contrary, no electric utility rate or fee increase of an electric utility subject to this chapter that is not in effect by November 20 in any year may take effect earlier than April 1 of the subsequent year.

NOTE: The purpose of this bill is to provide that an electric utility rate or fee increase that is not in effect by November 20 in any year may not take effect earlier than April 1 of the subsequent year.

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