

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 902

By Senator Helton

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

A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article, designated §24-9-1, §24-9-2, §24-9-3, and §24-9-4, relating to setting operational capacity requirements for electric utility generators and units; requiring the maintenance of 45 days' worth of base fuel supply; listing required actions for power-generating utilities; and requiring actions of the Public Service Commission.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9. SECURING WEST VIRGINIA BASELOAD COAL GENERATION AND

<u>RATEPAYER</u>	<u>PROTECTION</u>	<u>ACT.</u>
<u>§24-9-1.</u>	<u>Operational</u>	<u>capacity</u>
	<u>requirements.</u>	

In order to lower residential electric rates, extend plant life and maintain desired regional economic and employment levels, all electric utility generators and electric generating units, shall operate at optimum capacity factor level of 69% until 2040, as mandated by the West Virginia Public Service Commission Orders.

<u>§24-9-2.</u>	<u>Reliability</u>	<u>requirements.</u>
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For reliability measures, for every electric generating unit operating in West Virginia, the plant operator shall maintain a 45 day base fuel supply on site in close proximity to the boiler for said plant. The stockpile shall be continuously consumed and replenished based on the plant operating at optimum capacity factor of 69% and maintaining a reliable fuel supply chain for the plants. The West Virginia Public Service Commission will promulgate emergency or legislative rules to implement the requirements of this section.

<u>§24-9-3.</u>	<u>Actions</u>	<u>to</u>	<u>be</u>	<u>undertaken</u>	<u>by</u>	<u>power-generating</u>	<u>utilities.</u>
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(a) Electric generating units operating in the state of West Virginia shall balance the economic dispatch of each plant in coordination with optimum performance and desired capacity factor, management of its fuel supply and overall plant operation to ensure critical key results are maintained i.e., optimizing stable energy costs, assuring adequate base fuel supplies, maintaining

5 local jobs and revenues to local communities. To ensure that West Virginia's coal-fired power
6 plants operate consistently to the benefit of state ratepayers. The Public Service Commission shall
7 issue emergency rules to implement the requirements of this section.

8 (b) (1) All Electric Generating Units operating in West Virginia, shall within 90 days of the
9 effective date of this section, provide supplemental information to the Integrated Resource Plans
10 required under §24-2-19 of this code which will ensure the operation of each boiler and plant
11 operation under control of the utility through 2040, along with a detailed plant upgrade and
12 maintenance plan, improvement compliance schedule and cost estimate. Additionally, the
13 required Integrated Resource Plans will include an analysis of extending the life of the state's
14 existing generation resources beyond their planned retirement date in lieu of the construction of
15 new generation assets. The Public Service Commission will promulgate emergency or legislative
16 rules to implement the requirements of this section.

17 (2) (A) Upon receiving this supplemental report, the commission shall review the
18 supplemental report utilizing such experts and analysis necessary to evaluate the utilities
19 submittal and may approve with or without modification. The commission may recommend any
20 upgrade it demonstrates is necessary to ensure the affected plant will operate at optimum capacity
21 throughout its normal operating life or by 2040 whichever of the two is longer.

22 (B) The commission shall routinely investigate any plan on its own and may require
23 propose additional upgrades to maintain optimum plant operation.

24 (C) The utility may consult with the commission and request an independent evaluation of
25 any provision recommended or proposed by the commission that accentuates the operation of the
26 plan.

27 (c) No utility shall use any part of the moneys secured under the securitization provisions
28 found in §24-2-4f of this code to cease operation, close temporarily or permanently, or
29 disassemble any electric generating unit operating in this state.

30 (d) No utility shall undertake any decommissioning, deactivation or deconstruction

activities prior to obtaining the approval of the Public Service Commission or the West Virginia Public Energy Authority per the requirements of §5D-15C-1 *et seq.* of this code.

§24-9-4. Actions to be undertaken by the Public Service Commission.

(a) Beginning in June 2025, the West Virginia Public Service Commission shall undertake necessary steps to evaluate every capacity auction sponsored by the PJM Interconnection and coordinate the participation of every electric generating unit in the State of West Virginia for the benefit of state ratepayers.

(b) The West Virginia Public Service Commission, considering any need for additional generating capacity, shall require an evaluation of existing coal generation plants in the state and may recommend the acquisition of an existing in state coal electric generating unit or the execution of a power purchase agreement with an existing coal power plant located within the state.

(c) The West Virginia Public Service Commission shall undertake a review of the factors and criteria associated with the economic dispatch of the state's coal power plants. The review shall consider the differences between economic dispatch of coal-fired power plants and other electric generating units, the dispatch calculations of other utilities and jurisdictions. Within 90 days the Public Service Commission will promulgate emergency or legislative rules establishing state criteria for calculating economic dispatch to ensure that West Virginia's coal-fired power plants receive equitable treatment in the market and operate to the maximum benefit of state ratepayers.

NOTE: The purpose of this bill is to set operational capacity requirements for electric utility generators and units, require the maintenance of 45 days' worth of base fuel supply, list required actions for power-generating utilities, and actions required of the Public Service Commission.

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