

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 4012

By Delegates Linville, Mallow, Gearheart, Pettito,
Willis, Leavitt, Zatezalo, Canterbury, Hornby, Hott,
and Clark

[Introduced January 15, 2026; referred to the
Committee on Energy and Public Works]

1 A BILL to amend and reenact §24-2-11, §24-2-11a, and §24-2-11c of the Code of West Virginia,
2 1931, as amended, all relating to reducing the regulatory burden on utility companies when
3 constructing and maintaining electric power generation and transmission facilities within
4 this state.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-11. Requirements for certificate of public convenience and necessity.

1 (a) A public utility, person, or corporation, other than a political subdivision of the state
2 providing water or sewer services and having at least 4,500 customers and annual gross
3 combined revenues of \$3 million or more, may not begin the construction of any plant, equipment,
4 property, or facility for furnishing to the public any of the services enumerated in §24-2-1 of this
5 code, nor apply for, nor obtain any franchise, license, or permit from any municipality or other
6 governmental agency, except ordinary extensions of existing systems in the usual course of
7 business, unless and until it shall obtain from the Public Service Commission a certificate of public
8 convenience and necessity authorizing the construction franchise, license, or permit: *Provided*,
9 That the requirement to obtain a certificate of public convenience and necessity shall be waived for
10 projects that have been reviewed and determined to be technically feasible and approved by the
11 Infrastructure and Jobs Development Council.

12 (b) Upon the filing of any application for the certificate, and after hearing, the commission
13 may, in its discretion, issue or refuse to issue, or issue in part and refuse in part, the certificate of
14 convenience and necessity: *Provided*, That the commission, after it gives proper notice and if no
15 substantial protest is received within 30 days after the notice is given, may waive formal hearing on
16 the application. Notice shall be given by publication which shall state that a formal hearing may be
17 waived in the absence of substantial protest, made within 30 days, to the application. The notice
18 shall be published as a Class I legal advertisement in compliance with §59-3-1 *et seq.* of this code.
19 The publication area shall be the proposed area of operation.

(c) Any public utility, person, or corporation subject to the provisions of this section, other than a political subdivision of the state providing water and/or sewer services having at least 4,500 customers and combined annual gross revenue of \$3 million dollars or more, shall give the commission at least 30 days' notice of the filing of any application for a certificate of public convenience and necessity under this section: *Provided*, That the commission may modify or waive the 30-day notice requirement and shall waive the 30-day notice requirement for projects approved by the Infrastructure and Jobs Development Council.

(d) The commission shall render its final decision on any application filed under the provisions of this section or §24-2-11a of this code within ~~270~~ 180 days of the filing of the application and within ~~90~~ 60 days after final submission of any such application for decision following a hearing: *Provided*, That if the application is for authority to construct a water and sewer project and the projected total cost is less than \$10 million, the commission shall render its final decision within ~~225~~ 180 days of the filing of the application.

(e) The commission shall render its final decision on any application filed under the provisions of this section that has received the approval of the Infrastructure and Jobs Development Council pursuant to §31-15A-1 *et seq.* of this code within 180 days after filing of the application: *Provided*, That if a substantial protest is received within 30 days after the notice is provided pursuant to subsection (b) of this section, the commission shall render its final decision within 270 days or 225 days of the filing of the application, whichever is applicable as determined in subsection (d) of this section.

(f) If the projected total cost of a project which is the subject of an application filed pursuant to this section or §24-2-11a of this code is greater than ~~\$50~~ \$100 million but less than \$750 million, the commission shall render its final decision on any such application filed under the provisions of this section or §24-2-11a of this code within ~~400~~ 270 days of the filing of the application and within ~~90~~ 60 days after final submission of any such application for decision after a hearing. If the projected total cost of a project which is the subject of an application filed pursuant to this section

46 or §24-2-11a of this code is \$750 million or greater, the commission shall render its final decision
47 on any such application filed under the provisions of this section or §24-2-11a of this code within
48 360 days of the filing of the application and within 90 days after final submission of any such
49 application for decision after a hearing.

50 (g) If a decision is not rendered within the time frames established in this section, the
51 commission shall issue a certificate of convenience and necessity as applied for in the application.

52 (h) The commission shall prescribe rules it considers proper for the enforcement of the
53 provisions of this section; and, in establishing that public convenience and necessity do exist, the
54 burden of proof shall be upon the applicant.

55 (i) Pursuant to the requirements of this section, the commission may issue a certificate of
56 public convenience and necessity to any intrastate pipeline, interstate pipeline, or local distribution
57 company for the transportation in intrastate commerce of natural gas used by any person for one
58 or more uses, as defined by rule, by the commission in the case of:

59 (1) Natural gas sold by a producer, pipeline, or other seller to the person; or

60 (2) Natural gas produced by the person.

61 (j) A public utility, including a public service district, which has received a certificate of
62 public convenience and necessity after July 8, 2005, from the commission and has been approved
63 by the Infrastructure and Jobs Development Council is not required to, and cannot be compelled
64 to, reopen the proceeding if the cost of the project changes but the change does not affect the
65 rates established for the project.

66 (k) Any public utility, person, or corporation proposing any electric power project that
67 requires a certificate under this section is not required to obtain the certificate before applying for
68 or obtaining any franchise, license, or permit from any municipality or other governmental agency.

69 (l) Water or sewer utilities that are political subdivisions of the state and having at least
70 4,500 customers and combined gross revenues of \$3 million dollars or more desiring to pursue
71 construction projects that are not in the ordinary course of business shall provide adequate prior

72 public notice of the contemplated construction and proposed changes to rates, fees, and charges,
73 if any, as a result of the construction to both current customers and those persons who will be
74 affected by the proposed construction as follows:

75 (1) Adequate prior public notice of the contemplated construction by causing a notice of
76 intent to pursue a project that is not in the ordinary course of business to be specified on the
77 monthly billing statement of the customers of the utility for the month immediately preceding the
78 month in which an ordinance or resolution approving the proposed construction and proposed
79 changes to rates, fees, and charges, if any, is to be before the governing body for the public
80 hearing on the ordinance or resolution approving the proposed construction and proposed
81 changes to rates, fees, and charges, if any.

82 (2) Adequate prior public notice of the contemplated construction by causing to be
83 published as a Class I legal advertisement of the proposed public hearing on the ordinance or
84 resolution approving the proposed construction and proposed changes to rates, fees, and
85 charges, if any, in compliance with §59-3-1 *et seq.* of this code. The publication area for publication
86 shall be all territory served by the political subdivision. If the political subdivision provides service
87 in more than one county, publication shall be made in a newspaper of general circulation in each
88 county that the political subdivision provides service.

89 (3) The public notice of the proposed construction shall state the scope of the proposed
90 construction; a summary of the current rates, fees, and charges, and proposed changes to said
91 rates, fees, and charges, if any; the date, time, and place of the public hearing on the ordinance or
92 resolution approving the proposed construction and proposed changes to rates, fees, and
93 charges, if any; and the place or places within the political subdivision where the ordinance or
94 resolution approving the proposed construction and proposed changes to rates, fees, and
95 charges, if any, may be inspected by the public. A reasonable number of copies of the ordinance or
96 resolution shall be kept at the place or places and be made available for public inspection. The
97 notice shall also advise that interested parties may appear at the public hearing before the political

subdivision and be heard with respect to the proposed construction and the proposed rates, fees, and charges, if any.

(4) The ordinance or resolution on the proposed construction and the proposed rates, fees, and charges shall be read at two meetings of the governing body with at least two weeks intervening between each meeting. The public hearing may be conducted prior to, or at, the meeting of the governing body at which the ordinance or resolution approving the proposed construction is considered on second reading.

(5) Enactment or adoption of the ordinance or resolution approving the proposed construction and the proposed rates, fees, and charges shall follow an affirmative vote of the governing body and the approved rates shall go into effect no sooner than 45 days following the action of the governing body. If the political subdivision proposes rates that will go into effect prior to the completion of construction of the proposed project, the 45-day waiting period may be waived by public vote of the governing body only if the political subdivision finds and declares the political subdivision to be in financial distress such that the 45-day waiting period would be detrimental to the ability of the political subdivision to deliver continued and compliant public services: *Provided*, That, if the political subdivision is a public service district, in no event may the rate become effective prior to the date that the county commission has entered an order approving or modifying the action of the public service district board.

(6) Rates, fees, and charges approved by an affirmative vote of the public service district board shall be forwarded in writing to the county commission with the authority to appoint the members of the public service board of the public service district. The county commission shall, within 45 days of receipt of the proposed rates, fees, and charges, take action to approve, modify, or reject the proposed rates, fees, and charges, in its sole discretion. If, after 45 days, the county commission has not taken final action to approve, modify, or reject the proposed rates, fees, and charges, the proposed rates, fees, and charges, as presented to the county commission, shall be effective with no further action by the board or county commission. In any event this 45-day period

may be extended by official action of both the board proposing the rates, fees, and charges and the appointing county commission.

(7) The county commission shall provide notice to the public by a Class I legal advertisement of the proposed action, in compliance with §59-3-1 *et seq.* of this code, of the meeting where it shall consider the proposed increases in rates, fees, and charges no later than one week prior to the meeting date.

(8) A public service district, or a customer aggrieved by the changed rates or charges who presents to the circuit court a petition signed by 25 percent of the customers served by the public service district when dissatisfied by the approval, modification, or rejection by the county commission of the proposed rates, fees, and charges under the provisions of this subsection may file a complaint regarding the rates, fees, and charges resulting from the action of, or failure to act by, the county commission in the circuit court of the county in which the county commission sits: *Provided*, That any complaint or petition filed hereunder shall be filed within 30 days of the county commission's final action approving, modifying, or rejecting the rates, fees, and charges, or the expiration of the 45-day period from the receipt by the county commission, in writing, of the rates, fees, and charges approved by resolution of the board, without final action by the county commission to approve, modify, or reject the rates, fees, and charges, and the circuit court shall resolve said complaint: *Provided, however*, That the rates, fees, and charges so fixed by the county commission, or those adopted by the district upon which the county commission failed to act, shall remain in full force and effect until set aside, altered, or amended by the circuit court in an order to be followed in the future.

§24-2-11a. Requirement for certificate of public convenience and necessity before beginning construction of high voltage transmission line; contents of application; notice; hearing; criteria for granting or denying certificate; regulations.

(a) No public utility, person or corporation may begin construction of a high voltage transmission line of two hundred thousand volts or over, which line is not an ordinary extension of

3 an existing system in the usual course of business as defined by the Public Service Commission,
4 unless and until it or he or she has obtained from the Public Service Commission a certificate of
5 public convenience and necessity approving the construction and proposed location of the
6 transmission line.

7 (b) The application for the certificate shall be in the form the commission prescribes and
8 shall contain:

9 (1) A description, in such detail as the commission prescribes, of the location and type of
10 line facilities which the applicant proposes to construct;

11 (2) A statement justifying the need for the facilities which is to include an explanation of the
12 inadequacy of advanced transmission technologies to satisfy the need in the particular
13 circumstance;

14 (3) A statement of the environmental impact of the line facilities; and

15 (4) Other information the applicant considers relevant or the commission requires.

16 (c) Upon the filing of the application, the applicant shall publish, in the form the commission
17 directs, as a Class II legal advertisement in compliance with the provisions of article three, chapter
18 fifty-nine of this code, the publication area for the publication to be each county in which any
19 portion of the proposed transmission line is to be constructed, a notice of the filing of the
20 application and that the commission may approve the application unless within fifteen days after
21 completion of publication a written request for a hearing on the application has been received by
22 the commission from a person or persons alleging that the proposed transmission line or its
23 location is against the public interest. If the request is timely received, the commission shall set the
24 matter for hearing on a date within sixty days from completion of the publication, and shall require
25 the applicant to publish notice of the time and place of hearing in the same manner as is required
26 for the publication of notice of the filing of the application. At least thirty business days before the
27 deadline set by the Public Service Commission to file a petition to intervene with regard to the
28 application, the applicant shall serve notice by certified mail to all owners of surface real estate that

lie within the preferred corridor of the proposed transmission line. Notice received by a named owner who is the recipient of record of the most recent tax bill that has been issued by the county sheriff's office for a parcel of land at the time of the filing of the application is sufficient notice regarding that parcel for purposes of this subsection.

(d) Within sixty days after the filing of the application, or if hearing is held on the application, within ninety days after final submission on oral argument or brief, the commission may approve the application if it finds that the proposed transmission line:

(1) Will economically, adequately and reliably contribute to meeting the present and anticipated requirements for electric power of the customers served by the applicant or is necessary and desirable for present and anticipated reliability of service for electric power for its service area or region;

(2) Will be in the best interest of West Virginia customers and its citizens; and

(3) Will result in an acceptable balance between reasonable power needs and reasonable environmental factors.

(e) The commission may impose conditions upon its approval of the application, or modify the applicant's proposal, to achieve an acceptable balance between reasonable power needs and reasonable environmental factors.

(f) The provisions of this section do not apply to the construction of line facilities which will be part of a transmission line for which any right-of-way has been acquired prior to January 1, 1973.

(g) The commission shall prescribe rules it considers proper for the administration and enforcement of the provisions of this section, which rules shall be promulgated in accordance with the applicable provisions of chapter twenty-nine-a of this code.

(h) Notwithstanding any other provision of the law to the contrary, the commission shall determine, in its discretion, which transmission line or lines crossing above the Ohio River must be marked to be made visible to airborne traffic flying in any area where the lines exist, and shall

promulgate rules requiring that all public utilities or persons who install or maintain the lines make the necessary markings.

(i) A utility may maintain or replace existing transmission facilities, conductors, and/or structures with new transmission facilities, conductors, and/or structures without seeking a new certificate of public convenience and necessity and without holding a hearing under this article, if the maintenance or replacement is part of a transmission facility which has previously received a certificate of public convenience and necessity or that was in use or authorized prior to the requirement of a certificate of convenience and necessity. All replacement facilities, conductors and/or structures shall, at a minimum, comply with the terms and conditions of any applicable existing certificate of public convenience and necessity, but may utilize advanced transmission technologies.

§24-2-11c. Siting certificates for certain electric generating facilities or material modifications thereof.

(a) Notice of an application for a siting certificate required under the provisions of subdivisions (1), (2), (3), (4), and (5), subsection (d), section one of this article shall be given as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, with the publication area being each county in which all or a portion of the facility is located or to be located. Such notice shall also be published as a Class I legal advertisement in a newspaper published each weekday in Kanawha County and circulated both within and outside of Kanawha County. If no substantial protest is received within thirty days after the publication of notice, the commission may waive formal hearing on the application.

(b) The commission shall render its decision within ~~three hundred~~ 180 days of the date of filing of an application for a siting certificate. If no decision is rendered within such time period, the commission shall issue a siting certificate as applied for.

(c) In deciding whether to issue, refuse to issue, or issue in part and refuse to issue in part a siting certificate, the commission shall appraise and balance the interests of the public, the general

14 interests of the state and local economy, and the interests of the applicant. The commission may
15 issue a siting certificate only if it determines that the terms and conditions of any public funding or
16 any agreement relating to the abatement of property taxes do not offend the public interest, and
17 the construction of the facility or material modification of the facility will result in a substantial
18 positive impact on the local economy and local employment. The commission shall issue an order
19 that includes appropriate findings of fact and conclusions of law that address each factor specified
20 in this subsection. All material terms, conditions and limitations applicable to the construction and
21 operation of the proposed facility or material modification of the facility shall be specifically set forth
22 in the commission order.

23 (d) The commission may require an applicant for a siting certificate to provide such
24 documents and other information as the commission deems necessary for its consideration of the
25 application.

26 (e) If the commission issues the siting certificate, the commission shall have continuing
27 jurisdiction over the holder of the siting certificate for the limited purposes of: (1) Considering future
28 requests by the holder for modifications of or amendments to the siting certificate; (2) considering
29 and resolving complaints related to the holder's compliance with the material terms and conditions
30 of the commission order issuing the siting certificate, whether or not the complainant was a party to
31 the case in which the siting certificate was issued, which complaints shall be filed, answered, and
32 resolved in accordance with the commission's procedures for resolving formal complaints; and (3)
33 enforcing the material terms and conditions of a commission order as provided in subsection (f) of
34 this section.

35 (f) If the commission determines, in a proceeding instituted on its own motion or on the
36 motion of any person, that the holder of a siting certificate has failed without reasonable
37 justification to comply with any of the material terms and conditions of a commission order issuing
38 a siting certificate, modifying or amending a siting certificate, or resolving a complaint related to
39 compliance of the holder with the material terms and conditions of a siting certificate, the

40 commission may enforce the material terms and conditions of the commission order: (1) By
41 requiring the holder to show cause why it should not be required so to comply; (2) through a
42 proceeding seeking the imposition of a civil penalty not to exceed \$5,000 or criminal penalties as
43 provided in §24-4-4 of this code, or both such civil and criminal penalties, and the imposition of
44 either or both such civil penalty and criminal penalties shall be subject to the provisions of §24-4-8
45 of this code; (3) by mandamus or injunction as provided in section two of this article; or (4) prior to
46 the completion of construction of the proposed facility or prior to the completion of construction of a
47 material modification of the facility, by the suspension or revocation of the siting certificate,
48 including the preliminary suspension of the siting certificate under the standards applicable to
49 circuit courts of this state for the issuance of preliminary injunctions.

50 (g) Any person may seek to compel compliance with the material terms and conditions of a
51 commission order issuing, modifying or amending a siting certificate, or resolving a complaint
52 related to the holder's compliance with the material terms and conditions a siting certificate
53 through appropriate proceedings in any circuit court having jurisdiction.

54 (h) The material terms and conditions of a commission order issuing, modifying or
55 amending a siting certificate or resolving a complaint related to the holder's compliance with the
56 material terms and conditions of a commission order issuing a siting certificate shall continue to
57 apply to any transferee of the siting certificate or to any transferee of all or a portion of the
58 ownership interest in an electric generating facility for which a siting certificate has been issued. In
59 either case, the transferee or original holder of the siting certificate shall be subject to the
60 continuing jurisdiction of the commission to the extent provided in subsections (e) and (f) of this
61 section.

62 (i) Any party feeling aggrieved by a final order of the commission under this section may
63 petition for a review thereof by the Supreme Court of Appeals pursuant to section one, article five
64 of this chapter.

65 (j) The commission may prescribe such rules as may be necessary to carry out the

66 provisions of this section in accordance with the provisions of §24-1-7 of this code. Such rules may
67 include and provide for an application fee to be charged an applicant for a siting certificate, or for a
68 modification of, or amendment to, a siting certificate previously issued, under the provisions of this
69 section, which fee shall be paid into the State Treasury and kept in a special fund designated
70 Public Service Commission fund as established in §24-3-6(a) of this code, to be used for the
71 purposes set forth in that subsection.

NOTE: The purpose of this bill is to reduce the regulatory burden on utility companies when constructing and maintaining electric power generation and transmission facilities within this state.

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