

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

House Bill 5626

By Delegate Riley

[Introduced February 16, 2026; referred to the
Committee on Energy and Public Works]

1 A BILL to amend and reenact §24-2-4a the Code of West Virginia, 1931, as amended, relating to
 2 establishing rates for and recovering costs of by public utilities; defining certain terms;
 3 providing for the elective submission of future test year data in certain utility reports;
 4 requiring the commission to rely on certain submitted data in rate cases; and providing for
 5 rule-making.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-4a. Procedure for Changing Rates After June 30, 1981.

1 (a) After June 30, 1981, no public utility subject to this chapter, except for water and/or
 2 sewer utilities that are political subdivisions of the state providing separate or combined services
 3 and having at least 4,500 customers and annual gross revenue of \$3 million or more from its
 4 separate or combined services, shall change, suspend, or annul any rate, joint rate, charge, rental,
 5 or classification except after 30 days' notice to the commission and the public, which notice shall
 6 plainly state the changes proposed to be made in the schedule then in force and the time when the
 7 changed rates or charges shall go into effect; but the commission may enter an order suspending
 8 the proposed rate as hereinafter provided. The proposed changes shall be shown by printing new
 9 schedules, or shall be plainly indicated upon the schedules in force at the time, and kept open to
 10 public inspection: *Provided*, That the commission may, in its discretion, and for good cause shown,
 11 allow changes upon less time than the notice herein specified, or may modify the requirements of
 12 this section in respect to publishing, posting and filing of tariffs, either by particular instructions or
 13 by general order.

14 (b) Whenever there is filed with the commission any schedule stating a change in the rates
 15 or charges, or joint rates or charges, or stating a new individual or joint rate or charge or joint
 16 classification or any new individual or joint regulation or practice affecting any rate or charge, the
 17 commission may, either upon complaint or upon its own initiative without complaint, enter upon a
 18 hearing concerning the propriety of the rate, charge, classification, regulation, or practice; and, if

19 the commission so orders, it may proceed without answer or other form of pleading by the
20 interested parties, but upon reasonable notice, and, pending the hearing and the decisions
21 thereon, the commission, upon filing with the schedule and delivering to the public utility affected
22 thereby a statement in writing of its reasons for the suspension, may suspend the operation of the
23 schedule and defer the use of the rate, charge, classification, regulation, or practice, but not for a
24 longer period than 270 days beyond the time when the rate, charge, classification, regulation, or
25 practice would otherwise go into effect; and after full hearing, whether completed before or after
26 the rate, charge, classification, regulation, or practice goes into effect, the commission may make
27 the order in reference to the rate, charge, classification, regulation, or practice as would be proper
28 in a proceeding initiated after the rate, charge, classification, regulation, or practice had become
29 effective: *Provided*, That in the case of a public utility having 2,500 customers or less and which is
30 not a political subdivision and which is not principally owned by any other public utility corporation
31 or public utility holding corporation, the commission may suspend the operation of the schedule
32 and defer the use of the rate, charge, classification, regulation, or practice, but not for a longer
33 period than 120 days beyond the time when the rate, charge, classification, regulation, or practice
34 would otherwise go into effect; and in the case of a public utility having more than 2,500
35 customers, but not more than 5,000 customers, and which is not a political subdivision and which
36 is not principally owned by any other public utility corporation or public utility holding corporation,
37 the commission may suspend the operation of the schedule and defer the use of the rate, charge,
38 classification, regulation, or practice, but not for a longer period than 150 days beyond the time
39 when the rate, charge, classification, regulation, or practice would otherwise go into effect; and in
40 the case of a public utility having more than 5,000 customers, but not more than 7,500 customers,
41 and which is not a political subdivision and which is not principally owned by any other public utility
42 corporation or public utility holding corporation, the commission may suspend the operation of the
43 schedule and defer the use of the rate, charge, classification, regulation, or practice, but not for a
44 longer period than 180 days beyond the time when the rate, charge, classification, regulation, or

45 practice would otherwise go into effect; and after full hearing, whether completed before or after
46 the rate, charge, classification, regulation, or practice goes into effect, the commission may make
47 the order in reference to the rate, charge, classification, regulation, or practice as would be proper
48 in a proceeding initiated after the rate, charge, classification, regulation, or practice had become
49 effective: *Provided, however,* That, in the case of rates established or proposed that increase by
50 less than 25 percent of the gross revenue of the regulated public service district, there shall be no
51 suspension period in the case of rates established by a public service district pursuant to §16-13A-
52 9 of this code and the proposed rates of public service districts shall go into effect upon the date of
53 filing with the commission, subject to refund modification at the conclusion of the commission
54 proceeding. In the case of rates established or proposed that increase by more than 25 percent of
55 the gross revenue of the public service district, the district may apply for, and the commission may
56 grant, a waiver of the suspension period and allow rates to be effective upon the date of filing with
57 the commission. Notwithstanding the provisions of subsection ~~(e)~~ (f) of this section, the public
58 service district shall provide notice by Class I legal advertisement in a newspaper of general
59 circulation in its service territory of the percentage increase in rates at least 14 days prior to the
60 effective date of the increased rates. Any refund determined to be due and owing as a result of any
61 difference between any final rates approved by the commission and the rates placed into effect
62 subject to refund shall be refunded by the public service district as a credit against each
63 customer's account for a period of up to six months after entry of the commission's final order. Any
64 remaining balance which is not fully credited by credit within six months after entry of the
65 commission's final order shall be directly refunded to the customer by check: *Provided further,*
66 That if any such hearing and decision thereon is not concluded within the periods of suspension,
67 as above stated, the rate, charge, classification, regulation, or practice shall go into effect at the
68 end of the period not subject to refund: *And provided further,* That if any such rate, charge,
69 classification, regulation, or practice goes into effect because of the failure of the commission to
70 reach a decision, the same shall not preclude the commission from rendering a decision with

71 respect thereto which would disapprove, reduce, or modify any such proposed rate, charge,
72 classification, regulation, or practice, in whole or in part, but any such disapproval, reduction, or
73 modification shall not be deemed to require a refund to the customers of the utility as to any rate,
74 charge, classification, regulation, or practice so disapproved, reduced, or modified. The fact of any
75 rate, charge, classification, regulation, or practice going into effect by reason of the commission's
76 failure to act thereon does not affect the commission's power and authority to subsequently act
77 with respect to any such application or change in any rate, charge, classification, regulation, or
78 practice. Any rate, charge, classification, regulation, or practice which shall be approved,
79 disapproved, modified or changed, in whole or in part, by decision of the commission shall remain
80 in effect as so approved, disapproved, modified, or changed during the period or pendency of any
81 subsequent hearing thereon or appeal therefrom. Orders of the commission affecting rates,
82 charges, classifications, regulations, or practices which have gone into effect automatically at the
83 end of the of the suspension period are prospective in effect.

84 (c) At any hearing involving a rate sought to be increased or involving the change of any
85 rate, charge, classification, regulation, or practice, the burden of proof to show the justness and
86 reasonableness of the increased rate or proposed increased rate, or the proposed change of rate,
87 charge, classification, regulation, or practice shall be upon the public utility making application for
88 the change. The commission shall, whenever practicable and within budgetary constraints,
89 conduct one or more public hearings within the area served by the public utility making application
90 for the increase or change, for the purpose of obtaining comments and evidence on the matter
91 from local ratepayers.

92 (d) Each public utility subject to the provisions of this section shall be required to establish,
93 in a written report which shall be incorporated into each general rate case application, that it has
94 thoroughly investigated and considered the emerging and state-of-the-art concepts in the utility
95 management, rate design, and conservation as reported by the commission under § 24-1-1(c) of
96 this code as alternatives to, or in mitigation of, any rate increase. The utility report shall contain as

97 to each concept considered the reasons for adoption or rejection of each. When in any case
98 pending before the commission all evidence shall have been taken and the hearing completed, the
99 commission shall render a decision in the case. The failure of the commission to render a decision
100 with respect to any such proposed change in any such rate, charge, classification, regulation, or
101 practice within the various time periods specified in this section after the application therefor shall
102 constitute neglect of duty on the part of the commission and each member thereof.

103 (e) For purposes of this section, "Future Test Year" is the 12 consecutive-month period
104 beginning with the first month that the new rates will be in effect after the tolling of the applicable
105 suspension period. The commission shall utilize Future Test Year levels of costs, revenue, and the
106 average rate base of the Future Test Year in the determination of a utility's rates if the utility elects
107 to utilize a Future Test Year. The utility's proposed rate base calculation shall include either a
108 percentage of the construction work in progress in rate base or allowances for funds used during
109 construction which the commission shall include in rate base for purpose of calculating new rates:
110 Provided, That the commission shall promulgate rules pursuant to §29A-3-1 et seq. of this code to
111 prescribe support for projections presented by a utility as part of a Future Test Year and other
112 information necessary to evaluate the reasonableness of the projections.

113 ~~(e)~~ (f) Other than as provided in subsection (b) of this section relating to public service
114 districts, where more than 20 members of the public are affected by a proposed change in rates, it
115 shall be a sufficient notice to the public within the meaning of this section if the notice is published
116 as a Class II legal advertisement in compliance with §59-3-1 et seq. of this code and the
117 publication area for the publication shall be the community where the majority of the resident
118 members of the public affected by the change reside or, in case of nonresidents, have their
119 principal place of business within this state.

120 (f) (g) The commission may order rates into effect subject to refund, plus interest in the
121 discretion of the commission, in cases in which the commission determines that a temporary or
122 interim rate increase is necessary for the utility to avoid financial distress, or in which the costs

123 upon which these rates are based are subject to modification by the commission or another
124 regulatory commission and to refund to the public utility. In that case the commission may require
125 the public utility to enter into a bond in an amount deemed by the commission to be reasonable
126 and conditioned upon the refund to the persons or parties entitled thereto of the amount of the
127 excess if the rates so put into effect are subsequently determined to be higher than those finally
128 fixed for the utility.

129 ~~(g)~~ (h) No utility regulated under the provisions of this section may make application for a
130 general rate increase while another general rate application is pending before the commission and
131 not finally acted upon, except pursuant to the provisions of subsection ~~(e)~~ (f) of this section. The
132 provisions of this subsection shall not be construed so as to prohibit any such rate application from
133 being made while a previous application which has been finally acted upon by the commission is
134 pending before or upon appeal to the West Virginia Supreme Court of Appeals.

NOTE: The purpose of this bill is to establish rates for and recovering costs of by public utilities, provide for the elective submission of future test year data in certain utility reports, and require the commission to rely on certain submitted data in rate cases.

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