

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 48

By Senators Phillips and Hart

[Reported February 3, 2026, from the Committee on

Energy, Industry, and Mining]

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 modifying the powers and duties of the Public Service Commission;
3 prohibiting the commission from approving a new rate or fee or a rate or fee increase for
4 certain electric utilities to take effect between November 20 in any year and April 1 of the
5 following year; and prohibiting such rates or fees from taking effect in such time period.

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 any:

6 (1) Public utility;

7 (2) Municipally owned natural gas utilities or a utility; and

8 (3) Municipally owned water and/or sewer utility having less than 4,500 customers or
9 annual combined gross revenues of less than \$3 million only under the circumstances and
10 limitations set forth in §24-2-4b of this code, and subject to the provisions set forth in §24-2-3(b) of
11 this code. And whenever the commission, after hearing,

12 (b) When, And whenever the commission, after hearing, the commission finds any existing
13 rates, tolls, tariffs, joint rates, or schedules enacted or maintained by a utility regulated under the
14 provisions of this section to be unjust, unreasonable, insufficient, or unjustly discriminatory, or
15 otherwise in violation of any of the provisions of this chapter, the commission shall, by an order, fix
16 reasonable rates, joint rates, tariffs, tolls, or schedules to be followed in the future in lieu of those
17 found to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of
18 any provisions of law, and the commission, thereof. In fixing the rate of any railroad company, the

19 commission may fix a fair, reasonable, and just rate to be charged on any branch line thereof,
20 independent of the rate charged on the main line of that railroad.

21 (c) The commission may not:

22 (1) Enforce, originate, establish, change, nor promulgate tariffs, rates, joint rates, tolls, or
23 schedules for any municipal power system or water and/or sewer utility that is a political
24 subdivision of this state, provides a separate service or combined services, has at least 4,500
25 customers, and has annual combined gross revenues of \$3 million or more; nor

26 (2) Approve any new rate or fee or any rate or fee increase of an electric utility subject to
27 this chapter to take effect between November 20 in any year and April 1 of the following year.

28 (b) Any complaint filed with the commission by

29 (d) A resale or wholesale customer of a municipally owned water and/or sewer utility
30 having less than 4,500 customers or annual combined gross revenue of less than \$3 million may
31 file a complaint concerning utility rates, fees, or charges applicable to such resale or wholesale
32 customer shall be filed within 30 days of the enactment by the governing body of the political
33 subdivision of an ordinance changing the rates, fees, or charges. for such service. The
34 commission shall resolve said the complaint within 120 days of filing. The commission may toll the
35 120-day period for resolution of the complaint may be tolled by the commission until the necessary
36 information showing is filed which shows the basis of the rates, fees, charges, and other
37 information as the commission considers necessary. is filed: Provided, That The rates, fees, and
38 charges so fixed by the political subdivision providing separate or combined water and/or sewer
39 services shall remain in full force and effect until set aside, altered, or amended by order of the
40 commission. in an order to be followed in the future: Provided, however, That the commission shall
41 have no authority to The commission may not order refunds for amounts collected during the
42 pendency of the complaint proceeding unless the rates, fees, or charges so enacted by the
43 governing body were enacted subject to refund under the provisions of §24-2-4b(d)(2) or §24-2-
44 4b(g) of this code.

45 (e) In determining just and reasonable rates, the commission:

46 (1) May audit and investigate management practices and policies, ~~or have performed an~~
47 ~~audit and investigation of such practices and policies, in order to determine whether the utility is~~
48 operating with efficiency and is utilizing sound management practices. The commission shall
49 adopt rules and regulations setting forth the scope, frequency, and application of such audits and
50 investigations to the various utilities subject to its jurisdiction. The commission may include the
51 cost of conducting the management audit in the cost of service of the utility; and

52 (d) ~~In determining just and reasonable rates, the commission~~

53 (2) Shall investigate and review transactions between utilities and affiliates. The
54 commission shall limit the total return of the utility to a level which is just and reasonable when
55 considered with the level of profit or return the affiliate earns on transactions with the utility. ~~is just~~
56 ~~and reasonable.~~

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

1 (a) ~~A~~ No public utility subject to this chapter, except those utilities subject to the provisions
2 of §24-2-4b of this article, ~~shall~~ may not change, suspend, or annul any rate, joint rate, charge,
3 rental, or classification except after 30 days' notice to the commission and the public. ~~which~~ The
4 notice shall plainly state the changes proposed to be made in the schedule then in force proposed
5 modifications and the time when the ~~changed rates or charges shall~~ modifications will go into
6 effect, but the commission may enter an order suspending the proposed ~~rate~~ modifications as
7 hereinafter provided by this section. The proposed ~~changes~~ modifications shall be shown by
8 printing new schedules, or shall be plainly indicated upon the schedules in force at the time, and
9 kept open to public inspection. Provided, That the commission, ~~may~~ in its discretion and for good
10 cause shown, ~~allow changes~~ may allow modifications upon less time than the notice herein
11 specified, or may modify the requirements of this section ~~in~~ with respect to publishing, posting, and
12 filing of tariffs, either by particular instructions or by general order.

13 Whenever there shall be filed with the commission any schedule stating a change in the

14 ~~rates or charges, or~~

15 (b) For any schedule filed with the commission which states individual or joint rates or
16 ~~charges, or stating a new individual or joint rate or charge, or a new joint classification, or any a~~
17 ~~new individual or joint regulation or practice affecting any rate or charge, the commission: shall~~
18 ~~have authority, either upon complaint or upon its own initiative without complaint, to~~

19 (1) May enter upon a hearing concerning the propriety of such the rate, charge,
20 ~~classification, regulation, or practice;~~

21 (2) May enter upon the hearing either upon complaint or upon its own initiative without
22 ~~complaint; and if the commission so orders, it~~

23 (3) May proceed without answer or other form of pleading by the interested parties. but
24 ~~upon reasonable notice, and, pending such hearing and the decision thereon, the commission,~~
25 ~~upon filing with such schedule and delivering to the public utility affected thereby a statement in~~
26 ~~writing of its reasons for such suspension~~

27 (c) Pending any hearing and related decision pursuant to subsection (b) of this section, the
28 ~~commission may suspend the operation of such the schedule and defer the use of such the rate,~~
29 ~~charge, classification, regulation, or practice but not for a longer period than for up to 120 days~~
30 ~~beyond the time when such rate, charge, classification, regulation or practice it would otherwise go~~
31 ~~into effect. and after full hearing, whether completed before or after the rate, charge, classification,~~
32 ~~regulation, or practice goes into effect,~~

33 (1) The commission shall provide reasonable notice of the hearing to the public utility and a
34 written statement of reasons for any suspension.

35 (2) The commission may make such render an order in reference to such rate, charge,
36 ~~classification, regulation or practice as would be proper in a proceeding initiated after the rate,~~
37 ~~charge, classification, regulation, or practice had become effective: *Provided*, That becomes~~
38 effective, regardless of whether the hearing was completed before or after it has gone into effect.

39 *Provided*, That

40 (3) If any such hearing and decision thereon cannot be concluded within the period of
41 suspension, as above stated, such the rate, charge, classification, regulation, or practice shall go
42 into effect at the end of such the suspension period. In such case, the commission may require
43 such the public utility to enter into a bond in an amount deemed by the commission to be
44 reasonable, plus interest, and conditioned for the refund to the persons or parties entitled thereto
45 of the amount of the excess, plus interest at the rate of not less than seven percent per annum, as
46 may be specified by the commission, if such rate so any entitled party, if the rate put into effect is
47 subsequently determined to be higher than those that finally fixed for such the utility. In specifying
48 the applicable interest rate, The commission shall determine the interest rate, which shall be at
49 seven percent or higher. In determining the rate, the commission shall be guided by the interest
50 rate which: such

51 (A) The public utility would in all probability have to agree to pay if, such public utility at that
52 time, the public utility borrowed in the marketplace a sum of money equivalent to the amount of
53 money the commission estimates the increase in rates will produce between the effective date of
54 such the increase and the anticipated date the rates will be finally fixed; for such public utility, it
55 being and

56 (B) Is intended that to discourage a public utility should be discouraged from imposing
57 higher rates than it should reasonably anticipate will be finally fixed as a means of, in effect, of
58 borrowing money at a rate of interest less than such the public utility would have to agree to pay if it
59 borrowed money in the marketplace. No such accrued interest paid on any such refund shall be
60 deemed

61 (4) Interest paid pursuant to this section is not considered part of the cost of doing business
62 in a subsequent application for changing rates or any related decision, thereon

63 (5) At any hearing involving a rate sought to be increased or involving the change of any
64 fare, charge, classification, regulation, or practice, the burden of proof is on the public utility to
65 show that the increased rate or proposed increased rate, or the proposed change of fare, charge,

66 classification, regulation or practice proposed increase or change is just and reasonable. ~~shall be~~
67 upon the public utility making application for such change. When in any case pending before the
68 commission all evidence shall have been taken, and the hearing completed

69 (6) The commission shall ~~within three months~~, render a decision in ~~such~~ any pending case
70 within three months of gathering all evidence and completing the hearing.

71 (d) Where more than 20 members of the public are affected by a proposed change in rates,
72 it ~~shall be~~ a is sufficient notice to the public ~~within the meaning of~~ for purposes of this section if
73 ~~such~~ the notice is published as a Class II legal advertisement in compliance with ~~the provision of~~
74 §59-3-1, *et seq.*, of this code. ~~and~~ The publication area for ~~such~~ the publication ~~shall be~~ is the
75 community where the majority of the resident members of the public affected by ~~such~~ the change
76 reside or, in case of nonresidents, have their principal place of business within this state.

77 The provisions of this section ~~shall expire on and be~~ are of no further force and effect after
78 June 30, 1981, except that ~~as to~~ any case pending on ~~said~~ that date, in which the suspension
79 period has expired and rates are in effect under bond, ~~such case shall be proceeded with~~ shall
80 proceed in accordance with this section. As to any other case pending on ~~said~~ that date, the
81 commission shall treat the case as filed anew on July 1, 1981, except that ~~it shall not be~~ is not
82 necessary for any new process or notice to be served or published.

83 (e) Notwithstanding any provision in this chapter to the contrary, a new rate or fee or a rate
84 or fee increase of an electric utility subject to this chapter may not take effect between November
85 20 in any year and April 1 of the following year.