

# **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

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

(c) The commission may not:

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

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

~~(b) Any complaint filed with the commission by~~

(d) 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 may file a complaint concerning utility 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 the rates, fees, or charges. ~~for such service. The commission shall resolve said the~~ complaint within 120 days of filing. The commission may toll the 120-day period for resolution of the complaint may be tolled by the commission until the necessary information showing is filed which shows the basis of the rates, fees, charges, and other information as the commission considers necessary. ~~is filed: Provided, That~~ The 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 order of the commission. ~~in an order to be followed in the future: Provided, however, That the commission shall have no authority to~~ The commission may not 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)-(e)~~ In determining just and reasonable rates, the commission:

~~(1)~~ 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; and~~

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

~~(2)~~ Shall investigate and review transactions between utilities and affiliates. The commission shall limit the total return of the utility to a level which is just and reasonable 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.**

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

~~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

(3) If any such hearing and decision ~~thereon~~ cannot be concluded within the period of suspension, ~~as above stated, such~~ the rate, charge, classification, regulation, or practice shall go into effect at the end of ~~such~~ the suspension period. In such case, the commission may require such the public utility to enter into a bond in an amount deemed by the commission to be reasonable, plus interest, 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~~ any entitled party, if the rate put into effect is subsequently determined to be higher than ~~those~~ that finally fixed for ~~such~~ the utility. ~~In specifying the applicable interest rate, The commission shall determine the interest rate, which shall be at seven percent or higher. In determining the rate, the commission shall be guided by the interest rate which: such~~

(A) The public utility would in all probability have to agree to pay if, ~~such public utility~~ at that time, the public utility 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~~ the increase and the anticipated date the rates will be finally fixed; ~~for such public utility, it being and~~

(B) Is intended that to discourage a public utility ~~should be discouraged~~ from imposing higher rates than it should reasonably anticipate will be finally fixed as a means of, in effect, ~~of~~ borrowing money at a rate of interest less than ~~such~~ the 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~~

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

(5) 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 is on the public utility to show that the ~~increased rate or proposed increased rate, or the proposed change of fare, charge,~~

~~classification, regulation or practice~~ proposed increase or change 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

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

(d) Where more than 20 members of the public are affected by a proposed change in rates,  
~~it shall be a~~ is sufficient notice to the public ~~within the meaning of~~ for purposes of this section if  
such ~~the~~ notice is published as a Class II legal advertisement in compliance with ~~the provision of~~  
§59-3-1, *et seq.*, of this code. ~~and The publication area for such~~ the publication ~~shall be~~ is the  
community where the majority of the resident members of the public affected by ~~such the~~ 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~~ are of no further force and effect after  
June 30, 1981, except that ~~as to any case pending on said~~ that date, in which the suspension  
period has expired and rates are in effect under bond, ~~such case shall be proceeded with~~ shall  
proceed in accordance with this section. As to any other case pending on ~~said~~ that date, the  
commission shall treat the case as filed anew on July 1, 1981, except that ~~it shall not be~~ is not  
necessary for any new process or notice to be served or published.

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