

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Introduced

Senate Bill 669

By Senator Thorne

[Introduced January 29, 2026; referred
to the Committee on Economic Development; and
then to the Committee on the Judiciary]

1 A BILL to amend and reenact §24-2-3 of the Code of West Virginia, 1931, as amended, relating to
2 the general powers of the Public Service Commission; clarifying when the Public Service
3 Commission can approve utility rate increases; and providing a biennial review of rate
4 increases.

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
6 municipally owned natural gas utilities or a municipally owned water and/or sewer utility having
7 less than 4,500 customers or annual combined gross revenues of less than \$3 million only under
8 the circumstances and limitations set forth in §24-2-4b of this code, and subject to the provisions
9 set forth in §24-2-3(b) of this code. And whenever the commission, after hearing, finds any existing
10 rates, tolls, tariffs, joint rates, or schedules enacted or maintained by a utility regulated under the
11 provisions of this section to be unjust, unreasonable, insufficient, or unjustly discriminatory or
12 otherwise in violation of any of the provisions of this chapter, the commission shall by an order fix
13 reasonable rates, joint rates, tariffs, tolls, or schedules to be followed in the future in lieu of those
14 found to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of
15 any provisions of law, and the commission, in fixing the rate of any railroad company, may fix a fair,
16 reasonable, and just rate to be charged on any branch line thereof, independent of the rate
17 charged on the main line of that railroad.

18 (b) Any complaint filed with the commission by a resale or wholesale customer of a
19 municipally owned water and/or sewer utility having less than 4,500 customers or annual

20 combined gross revenue of less than \$3 million concerning rates, fees, or charges applicable to
21 such resale or wholesale customer shall be filed within 30 days of the enactment by the governing
22 body of the political subdivision of an ordinance changing rates, fees, or charges for such service.
23 The commission shall resolve said complaint within 120 days of filing. The 120-day period for
24 resolution of the complaint may be tolled by the commission until the necessary information
25 showing the basis of the rates, fees, charges, and other information as the commission considers
26 necessary is filed: *Provided*, That rates, fees, and charges so fixed by the political subdivision
27 providing separate or combined water and/or sewer services shall remain in full force and effect
28 until set aside, altered, or amended by the commission in an order to be followed in the future:
29 *Provided*, however, That the commission shall have no authority to order refunds for amounts
30 collected during the pendency of the complaint proceeding unless the rates, fees, or charges so
31 enacted by the governing body were enacted subject to refund under the provisions of §24-2-
32 4b(d)(2) or §24-2-4b(g) of this code.

33 (c) In determining just and reasonable rates, the commission may audit and investigate
34 management practices and policies, or have performed an audit and investigation of such
35 practices and policies, in order to determine whether the utility is operating with efficiency and is
36 utilizing sound management practices. The commission shall adopt rules and regulations setting
37 forth the scope, frequency, and application of such audits and investigations to the various utilities
38 subject to its jurisdiction. The commission may include the cost of conducting the management
39 audit in the cost of service of the utility.

40 (d) In determining just and reasonable rates, the commission shall investigate and review
41 transactions between utilities and affiliates. The commission shall limit the total return of the utility
42 to a level which, when considered with the level of profit or return the affiliate earns on transactions
43 with the utility, is just and reasonable.

44 (e) Notwithstanding any other provision of this code, the commission shall not approve any
45 increase in rates, charges, surcharges, riders, or other cost recovery mechanisms imposed upon

46 retail ratepayers unless the commission finds, based upon substantial evidence in the record, that
47 the costs assigned to such ratepayers are reasonably proportionate to the benefits expected to be
48 received by those ratepayers. In determining whether costs assigned to ratepayers are
49 reasonably proportionate to the benefits expected to be received by the taxpayers:

50 (1) Costs shall be deemed not reasonably proportionate where:

51 (A) The facilities are located primarily outside this state;

52 (B) The facilities primarily serve load, reliability needs, or market transactions outside this
53 state; or

54 (C) The asserted benefits to West Virginia ratepayers consist primarily of projected,
55 modeled, regional, future, or speculative benefits not demonstrated by actual operational data;
56 and

57 (2) Projected, forecasted, or modeled megawatt-hours may be used solely for the initial
58 establishment of rates applicable to the first year of commercial operation for a facility that has not
59 yet commenced commercial operation and shall not be relied upon once actual operational data
60 becomes available.

61 (f) Any rate approved pursuant to this subsection shall be subject to biennial review, and if
62 the commission determines that the requirements of this subsection are no longer satisfied, the
63 commission shall exclude such costs from rates on a prospective basis.

64 (g) Nothing in this subsection shall be construed to permit the allocation of costs to West
65 Virginia retail ratepayers based solely upon regional cost-sharing arrangements, membership in a
66 regional transmission organization, or generalized assertions of system-wide or regional benefits.

NOTE: The purpose of this bill is to clarify when the Public Service Commission can approve utility rate increases.

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