WEST VIRGINIA CODE: §24-2-11D

§24-2-11d. Revocation of certificate of public convenience and necessity; acquisition of facilities by capable public utility.

(a) In addition to the powers conferred by section seven, article two of this chapter, upon a finding by the Public Service Commission that a public utility which holds a certificate of public convenience and necessity to provide natural gas or electric service is unable or unwilling to adequately serve its customers or has been actually or effectively abandoned by its owner or owners, or that its management is grossly and willfully inefficient, irresponsible or unresponsive to the needs of its customers, or is not capable of providing economical and efficient utility service, the commission may, after reasonable notice and opportunity for hearing has been afforded to the affected utility and its customers, revoke the certificate of public convenience and necessity held by the public utility. In the case of such revocation, the commission shall concurrently order a capable public utility to acquire the facilities of the revoked public utility and to provide service to the customers of the revoked public utility. The commission shall also allow a capable public utility that acquires the facilities of a revoked public utility to recover all reasonable costs related to such acquisition of facilities and upgrading of service to customers of the revoked public utility, including, but not limited to, additional capital, environmental, operating and maintenance costs.

(b) In making a determination to revoke a certificate of public convenience and necessity, pursuant to subsection (a) of this section, the commission shall consider: (1) The financial, managerial and technical ability of the public utility considered for revocation; (2) the financial, managerial and technical ability of the capable public utility; (3) the expenditures that may be necessary to make improvements to the facilities of the public utility considered for revocation to assure compliance with all applicable statutory and regulatory standards concerning adequacy, efficiency, safety and reasonableness of service; and (4) any other matters which may be relevant.

(c) The price of the acquisition of the facilities of the revoked public utility shall be determined by an agreement between the revoked public utility and the acquiring capable public utility, subject to a determination by the commission that the price is reasonable. If the revoked public utility and the acquiring capable public utility are unable to agree on an acquisition price or the commission disapproves the acquisition price on which the utilities have agreed, the commission shall issue an order directing the acquiring capable public utility to acquire the revoked public utility by following the procedure prescribed for exercising the power of eminent domain pursuant to article two, chapter fifty-four of this code. The fact that the acquisition price has not been agreed to or finally determined shall not delay the effect of any order issued by the commission pursuant to subsection (a) of this section.

(d) As used in this section, the following words and phrases shall have the following meanings:

WVLegislature

(1) "Capable public utility" means a public utility which provides electric or natural gas service and has at least twenty-five thousand customers which provides the same type of utility service as the revoked public utility and has the financial, managerial and technical ability to comply with all applicable statutory and regulatory standards concerning adequacy, efficiency, safety and reasonableness of service on a long-term basis;

(2) "Revoked public utility" means a public utility with less than twenty-five thousand customers which has had its certificate of public convenience and necessity revoked by the commission pursuant to subsection (a) of this section.

(e) Any action of the Public Service Commission to revoke the certificate of public convenience and necessity of an electric or natural gas public utility pursuant to the provisions of this section must be initiated on or before March 1, 2008.

WV Legislature