WEST VIRGINIA CODE: §24-2-3

§24-2-3. General power of commission with respect to rates.

(a) The commission may enforce, originate, establish, change, and promulgate tariffs, rates, joint rates, tolls, and schedules for all public utilities except for municipal power systems and water and/or sewer utilities that are political subdivisions of this state providing a separate or combined services and having at least 4,500 customers and annual combined gross revenues of $3 million or more: Provided, That the commission may exercise such rate authority over municipally owned natural gas utilities or a municipally owned water and/or sewer utility having less than 4,500 customers or annual combined gross revenues of less than $3 million only under the circumstances and limitations set forth in §24-2-4b of this code, and subject to the provisions set forth in §24-2-3(b) of this code. And whenever the commission, after hearing, finds any existing rates, tolls, tariffs, joint rates, or schedules enacted or maintained by a utility regulated under the provisions of this section to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any of the provisions of this chapter, the commission shall by an order fix reasonable rates, joint rates, tariffs, tolls, or schedules to be followed in the future in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory or otherwise in violation of any provisions of law, and the commission, in fixing the rate of any railroad company, 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.

(b) Any complaint filed with the commission by 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 concerning 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 rates, fees, or charges for such service. The commission shall resolve said complaint within 120 days of filing. The 120-day period for resolution of the complaint may be tolled by the commission until the necessary information showing the basis of the rates, fees, charges, and other information as the commission considers necessary is filed: Provided, That 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 the commission in an order to be followed in the future: Provided, however, That the commission shall have no authority to 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) In determining just and reasonable rates, the commission 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

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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.

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

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