WEST VIRGINIA CODE: §24-2H-3

§24-2H-3. Definitions.

(a) A “distressed utility” is a water or wastewater utility that, for financial, operational, or managerial reasons:

(1) (A) Is in continual violation of statutory or regulatory standards of the Bureau for Public Health, the Department of Environmental Protection, or the commission, which affect the water quality, safety, adequacy, efficiency, or reasonableness of the service provided by the water or wastewater utility;

(B) Fails to comply within a reasonable period of time with any final, nonappealable order of the Department of Environmental Protection, Bureau for Public Health, or the commission concerning the safety, adequacy, efficiency, or reasonableness of service, including, but not limited to, the availability of water, the potability of water, the palatability of water, or the provision of water at adequate volume and pressure, and the collection and treatment of wastewater;

(2) Is no longer able to provide adequate, efficient, safe, and reasonable utility services; or

(3) Fails to timely pay some or all of its financial obligations, including, but not limited to, its federal and state tax obligations and its bond payments to the West Virginia Water Development Authority, the United States Department of Agriculture, or other bondholders; fails to maintain its debt service reserve; or fails to submit an audit as required by its bond or loan documents or state law.

(b) “Failing water or wastewater utility” means a public utility that:

Meets the definition of a distressed water or wastewater utility, and either:

(A) Has not, after a reasonable time period, been stabilized and improved by corrective measures put in place under §24-2H-7 of this code; or

(B) Has had the requirements of §24-2H-7 of this code suspended for good cause shown by an order of the commission.

(c) “Capable proximate water or wastewater utility” means a public utility which regularly provides adequate, safe, and reasonable service of the same type as the distressed utility and is situated close enough to the facilities of a distressed utility that operational management is reasonable, financially viable, and nonadverse to the interests of the current customers of the nondistressed utility.

WV Legislature