
WEST VIRGINIA CODE CHAPTER 5b
ARTICLE 2N

WV Legislature

§5B-2N-1. Short title.

This article shall be known and cited as the Grid Stabilization and Security Act.

WV Legislature

§5B-2N-2. Legislative findings; declaration of public policy.

(a) The Legislature finds that:

(1) The advent and advancement of new and existing technologies and drilling practices have created the opportunity for efficient development of natural gas in West Virginia, including opportunities for the production of electricity;

(2) Production of electricity utilizing natural gas produced in West Virginia is highly underdeveloped in comparison to nearby states with which West Virginia competes for economically beneficial projects. Natural gas electric generation projects have been undermined by existing regulatory requirements and related time delays;

(3) In developing regulatory actions and identifying appropriate approaches to encourage development of natural gas electric generation projects, agencies should attempt to promote coordination, simplification, and harmonization. Agencies should also seek to identify appropriate means to achieve regulatory goals that are designed to promote innovation and enhance West Virginia's competitiveness with surrounding states;

(4) Agencies should review their existing legislative and procedural rules to determine whether any such rules should be modified, streamlined, expanded, or repealed to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives related to natural gas electric generation projects. Agencies should also evaluate the data that they have to determine what information might be useful to prompt permitting and approving natural gas generated electricity; and

(5) The West Virginia Department of Economic Development, established in §5B-2-1 *et seq.* of this code, is responsible for implementing this Grid Stabilization and Security Act and providing as much assistance as possible to grow and sustain the natural gas electric generation segment of the economy.

(b) The Legislature declares that facilitating the development of business activity directly and indirectly related to natural gas electric generation development, transportation, storage, and use serves the public interest of the citizens of this state by promoting economic development, improving economic opportunities for the citizens of this state, and providing additional opportunities to stabilize the price of electricity while increasing its reliability and availability.

§5B-2N-2a. Creating the Electric Grid Stabilization and Security Fund.

(a) The Electric Grid Stabilization and Security Fund is hereby created. The fund shall be administered by the Department of Commerce and shall consist of all moneys made available for the purposes and from the sources set forth in this section of the code.

(b) The fund consists of moneys received from the following sources:

(1) All moneys received pursuant to §11-6N-4(b)(4)(C) of this code;

(2) All appropriations provided by the Legislature;

(3) Any moneys available from external sources; and

(4) All interest and other income earned from investment of moneys in the fund.

(c) The Department of Commerce shall use moneys in the fund to provide support for electric grid stabilization for regulated utilities and grid security, including development, efficiency, and environmental upgrades, but not decommissioning and replacement of existing facilities; maintenance of utility owned and operated coal and natural gas electric generation, regardless of unit or plant ownership by different regulatory jurisdictions; and transmission resources which solely serve West Virginia rate payers.

(d) Any balance, including accrued interest and any other returns, in the Electric Grid Stabilization and Security Fund at the end of each fiscal year may not expire to the General Revenue Fund but remain in the fund and be expended for the purposes provided by this section.

(e) Fund balances may be invested with the state's Consolidated Investment Fund. Earnings on the investments shall be used solely for the purposes defined in §5B-2-16(c) of this code.

(f) In order to effectuate the purposes of this section, the Department of Commerce may promulgate legislative rules, including emergency rules, in accordance with §29A-3-1 *et seq.* of this code.

§5B-2N-3. Identification of suitable sites for natural gas electric generation projects.

(a) The Secretary of the Department of Economic Development is authorized and directed to identify economically viable sites within the state that are:

- (1) Located near a convenient and sufficient supply of natural gas; and
- (2) Likely to create economically viable natural gas electric generation projects that provide economic benefits to the local and state governmental units and the citizens of the state.

(b) The Secretary of the Department of Economic Development shall use the following criteria in identifying economically viable sites for natural gas electric generation projects:

- (1) Geographic locations near producing natural gas wells, or pipelines carrying natural gas produced in the state, capable of supplying and sustaining one or more natural gas electric generation facilities for the economic life of the facilities;
- (2) Geographic locations near existing electric transmission infrastructure capable of transmitting the generated electricity to wholesale markets.
- (3) Geographic locations that fulfill the air quality conditions imposed by the Division of Air Quality of the West Virginia Department of Environmental Protection for one or more natural gas electric generation facilities; and
- (4) Geographic locations that can demonstrate that allowable emission increases from one or more natural gas electric generation facilities, in conjunction with all other applicable emission increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:
 - (A) Any national or West Virginia ambient air quality standard in any air quality control region; or
 - (B) Any applicable maximum allowable increase over the baseline concentration in any area.

§5B-2N-4. Designation of sites suitable for natural gas electric generation projects.

(a) Following identification of economically viable sites that may be suitable for natural gas electric generation projects, the Secretary of the Department of Economic Development shall identify and designate each site it has determined to be suitable for natural gas electric generation projects as a "designated site", and shall communicate the designated sites to the West Virginia Department of Environmental Protection's Division of Air Quality and the West Virginia Public Service Commission as sites suitable for the construction and operation of natural gas electric generation projects.

(b) Any application for a siting certificate pursuant to §24-2-11c of the West Virginia Code filed with the Public Service Commission to construct or to construct and operate a natural gas electric generation project at a designated site shall be adjudicated, inclusive of public hearings, and a final order issued by the Public Service Commission, within 270 calendar days after the date of the filing of the application, notwithstanding the requirements of any other provision of this code.

(c) Nothing in this section is intended to preclude, modify, or establish new Public Service Commission jurisdiction over:

- (1) Any exercise of powers, duties, and obligations pursuant to the West Virginia Public Energy Authority Act;
- (2) The right of end-user consumers of electricity to develop, invest in, or otherwise contract for on-site electric self-generation or cogeneration facilities, including those utilizing natural gas as a fuel source;
- (3) This section does not alter, modify, or cancel any existing cogeneration tariffs authorized by the Public Service Commission; and
- (4) This section does not authorize the sale of electricity to end-users in the state.

(d) Where a designated site has been identified, in accordance with §22-5-11b(b) of this code, as a location where additional data would be helpful for modeling or other evaluation of the potential emission of a natural gas electric generation project, the Department of Economic Development shall construct such facilities as are necessary to acquire such data.