WEST VIRGINIA CODE: §8-12-23

§8-12-23. Limitations on municipalities, political subdivisions, and local governing bodies' authority over energy usage and development.

(a) As used in this section:

"Energy source" means the method of generation, or the fuel source, used to provide or supply utility service to a customer. The term includes any nonrenewable or renewable energy source.

"Governing body" shall mean the mayor and council together, the council, the board of directors, the commission, or other board or body of any municipality with the responsibility of enacting ordnances and determining public policy, as defined in §8-1-2(b)(1) of this code.

"Municipality" shall mean and include any Class I, Class II, and Class III city and any Class IV town or village, heretofore or hereafter incorporated as a municipal corporation under the laws of this state, as defined in §8-1-2(a)(1) of this code.

"Political subdivision" shall have the meaning as defined in §29-12A-3 of this Code.

"Private property" means real property that is not owned or leased by a municipality or county.

"Utility service" means any service provided by a public utility or private business, including, but not limited to:

(1) The generation, production, transmission, or distribution of electricity to or for the public, for compensation; or the production, manufacture, storage, transportation, distribution, sale, or

(2) furnishing of:

(A) Natural gas; propane; artificial or manufactured gas; or

(B) a mixture of natural gas and artificial or manufactured gas; to or for the public, for compensation; for heat, light, power, or other uses.

(b) A municipality, political subdivision, or governing body, as defined in this section, does not have the power to enact any code, ordinance, or land use regulation, that would prohibit or have the effect of prohibiting, or, to otherwise regulate in any manner prohibiting or have the effect of prohibiting:

(1) A public utility, private business, or department of public utilities from furnishing a utility service to a utility customer based on an energy source provided or used by a utility service;

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(2) A customer of a public utility or department of public utilities from purchasing, using, or connecting or reconnecting to a utility service based on the energy source provided or used by a utility service; or

(3) A public utility, private business, or department of public utilities, from utilizing any vehicles, equipment, machinery, or tools, to provide utility services to a utility customer based on the energy source used by or powering vehicles, equipment, machinery, or tools that are used by the utility service.

(c) Any code, ordinance, land use regulation, or general or specific plan provision adopted by a municipality, political subdivision, or governing body, must preserve the ability of an owner of private property to use the utility service of a utility service provider that is otherwise authorized under this code.

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