WEST VIRGINIA CODE CHAPTER 8 ARTICLE 31

WV Legislature

PART I. GRANTING OF FRANCHISE.

§8-31-1. Conditions to granting of franchise by governing body or county court; term of franchise; Public Service Commission power and authority not affected.

Every municipality and every county court are hereby empowered and authorized to grant an exclusive or nonexclusive franchise to any person. No franchise, however, shall hereafter be granted by the governing body of any municipality or by the county court of any county where the application for such franchise has not been filed, with the recorder of such municipality or the clerk of such county court, at least thirty days prior to the time when it is to be acted upon by such governing body or county court, and where notice of such application, stating the object of such franchise, has not been given by publication thereof as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, for which publication the publication area shall be the municipality or the county, as the case may be, wherein such franchise is to be granted. No such franchise shall be granted within thirty days after the application has been filed, nor until an opportunity has been given any person interested in the granting or refusing of such franchise to be heard. No such franchise shall hereafter be granted by any municipality or county court for a longer term than fifty years: Provided, That nothing in this section shall prevent the renewal of any such franchise for a term not exceeding fifty years, when the same shall have expired. No such franchise hereafter granted for any longer term than fifty years shall be of any force or validity. Notwithstanding the provisions of this article or any other provisions of this chapter, other general law or any charter, the failure or inability of any person to obtain from any municipality or county court a franchise for the rendering of a public service shall in no way whatever affect the power and authority granted to, and the duties and obligations imposed upon, such person under the provisions of chapter twenty-four of this code or by the Public Service Commission.

WV Legislature

PART II. COMPELLING COMPLIANCE WITH FRANCHISE.

§8-31-2. Compelling compliance with franchise obligations; damages; forfeiture.

When any person has obtained or shall hereafter obtain any franchise, and the terms, conditions or manner of exercising such franchise are embodied in the ordinance of the municipality or the order of the county court granting such franchise, or are otherwise either voluntarily assumed, or by law imposed upon such person, then and in each of such cases the circuit court of the county (except so far as the powers herein conferred upon the circuit court are, by chapter twenty-four of this code, conferred upon the Public Service Commission) in which the municipality or the major portion of the territory thereof is located or for which the county court acted shall have power by mandamus to compel such person, and the successors and assigns of such person, to use and exercise such franchise in accordance with the lawful terms and conditions and in the manner so prescribed in such ordinance or order or otherwise lawfully so defined or assumed, and to do and perform each and every lawful obligation or duty attached to such franchise, whether such obligation or duty be voluntarily assumed or imposed by law.

Such mandamus may be awarded at the instance of such municipality or county, and this section shall not be construed to deprive such municipality or county, or any inhabitant thereof, of any other remedy to compel such person to comply with the terms, conditions and agreements of such franchise, or of the right to recover damages for noncompliance therewith or to affect, remove or lessen the liability of such person to forfeiture of such franchise for failure so to use and exercise such franchise.

WV Legislature