

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1935

ENROLLED

HOUSE BILL No. 473

(By Mr. La Fow)

PASSED March 7 1935

In Effect 90 days from Passage

473

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House Bill No. 473

(BY MR. LAFON)

[Passed March 7, 1935; in effect from passage.]

ninety days

*OK
Mr. Hall
by 600*

AN ACT to amend chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, by adding to article one thereof a new section to be numbered section eight; by adding to article two thereof two new sections to be numbered eleven and twelve; and by amending and reenacting section two, article two, and section two, article four of said chapter, all relating to the public service commission.

Be it enacted by the Legislature of West Virginia:

That chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, be amended as follows: By adding to article one a new section to be numbered section eight; by adding to article two thereof two new sections to be numbered eleven and twelve; and by amending and reenacting section two,

article two, and section two, article four of said chapter, all to read as follows:

ARTICLE I

Section 8. The commission may, if it deems the same necessary, in the administration of the public service commission law, request the attorney general to employ or designate an assistant attorney general, under his supervision and direction, to represent the commission in proceedings before it on application, complaint, or otherwise, and proceedings of any nature in any and all courts or before administrative or executive boards and to act as legal adviser to the commission in all matters for which his services, in the opinion of the commission, are required, and may, if it deems the same proper, pay in part or all of the salary, compensation and expenses of said assistant attorney general so designated or employed; but the amount so paid, in no event shall exceed five thousand dollars per annum, which amount shall be payable as other salaries and expenses of the commission are paid.


ARTICLE II

Sec. 2. The commission is hereby given power to investigate all rates, methods and practices of public utilities subject to

3 the provisions of this chapter; to require them to conform to
4 the laws of this state and to all rules, regulations and orders of
5 the commission not contrary to law; and to require copies of
6 all reports, rates, classifications, schedules and time-tables in
7 effect and used by such utility or other person, to be filed with
8 the commission, and all other information desired by the com-
9 mission relating to such investigation and requirements, includ-
10 ing inventories of all property in such form and detail as the
11 commission may prescribe. The commission may compel
12 obedience to its lawful orders by mandamus or injunction or
13 other proper proceedings in the name of the state in any circuit
14 court having jurisdiction of the parties or of the subject matter,
15 or the supreme court of appeals direct, and such proceedings
16 shall have priority over all pending cases. The commission may
17 change any intrastate rate, charge or toll which is unjust or
18 unreasonable or any interstate charge with respect to matters
19 of a purely local nature which have not been regulated by or
20 pursuant to act of congress and may prescribe such rate, charge
21 or toll as would be just and reasonable, and change or prohibit
22 any practice, devise or method of service in order to prevent
23 undue discrimination or favoritism between persons and be-

24 tween localities and between commodities for a like and con-
25 temporaneous service. But in no case shall the rate, toll or
26 charge be more than the service is reasonably worth, consider-
27 ing the cost thereof. Every order entered by the commission
28 shall continue in force until the expiration of the time, if any,
29 named by the commission in such order, or until revoked or
30 modified by the commission, unless the same be suspended,
31 modified or revoked by order or decree of a court of competent
32 jurisdiction.

*OK
Geo. S. Hall
signed*

→ Sec. 11. No public  utility, person or corporation
2 shall begin the construction of any plant, equipment, property
3 or facility for furnishing to the public any of the services
4 enumerated in section one, article two of this chapter, nor
5 apply for, nor obtain any franchise, license or permit from
6 any municipality or other governmental agency except ordinary
7 extensions of existing systems in the usual course of business,
8 unless and until it shall obtain from the public service com-
9 mission a certificate of public convenience and necessity
10 requiring such construction, franchise, license or permit. Upon
11 the filing of any application for such certificate, and after hear-
12 ing, the commission may, in its discretion, issue or refuse to

13 issue, or issue in part and refuse in part, such certificate of
14 convenience and necessity. The commission shall prescribe such
15 rules and regulations as it may deem proper for the enforce-
16 ment of the provisions of this section, and in establishing that
17 public convenience and necessity do exist the burden of proof
18 shall be upon the applicant.

Sec. 12. Unless the consent and approval of the public
2 service commission of West Virginia is first obtained: (a) No
3 public utility subject to the provisions of this chapter, except
4 railroads other than street railroads, may enter into any con-
5 tract with any other utility to operate any line or plant of
6 any other utility subject thereto, nor which will enable such
7 public utility to operate their lines or plants in connection with
8 each other, but this shall not be construed to prevent physical
9 connections between utilities supplying the same service or
10 commodity, for temporary purposes only, upon condition, how-
11 ever, that prompt notice thereof be given to the commission
12 for such action, if any, as it may deem necessary, and there-
13 after the commission may require such connection to be re-
14 moved or discontinued; (b) no public utility subject to the
15 provisions of this chapter, except railroads other than street

16 railroads, may purchase, lease, or in any other manner acquire
17 control, direct or indirect, over the franchises, licenses, permits,
18 plants, equipment, business or other property of any other
19 utility; (c) no public utility subject to the provisions of this
20 chapter, except railroads other than street railroads, may
21 assign, transfer, lease, sell, or otherwise dispose of its franchises,
22 licenses, permits, plants, equipment, business or other property
23 or any part thereof; but this shall not be construed to prevent
24 the sale, lease, assignment or transfer by any public utility
25 of any tangible personal property which is not necessary or
26 useful, nor will become necessary or useful in the future, in
27 the performance of its duties to the public; (d) no public
28 utility subject to the provisions of this chapter, except rail-
29 roads other than street railroads, may, by any means, direct
30 or indirect, merge or consolidate its franchises, licenses, permits,
31 plants, equipment, business or other property with that of any
32 other public utility; (e) no public utility subject to the pro-
33 visions of this chapter, except railroads other than street rail-
34 roads, may purchase, acquire, take or receive any stock, stock
35 certificates, bonds, notes, or other evidence of indebtedness of
36 any other public utility; (f) no public utility subject to the pro-

37 visions of this chapter, except railroads other than street rail-
38 roads, may, by any means, direct or indirect, enter into any
39 contract or arrangement for management, construction, en-
40 gineering, supply, or financial services or for the furnishing
41 of any other service, property or thing, with any affiliated
42 corporation, person or interest.

43 The commission may grant its consent in advance or exempt
44 from the requirements of this section all assignments, transfers,
45 leases, sales or other disposition of the whole or any part of
46 the franchises, licenses, permits, plants, equipment, business or
47 other property of any public utility, or any merger or con-
48 solidation thereof and every contract, purchase of stocks,
49 arrangement or other transaction referred to in this section,
50 upon proper showing that the terms and conditions thereof
51 are reasonable and that neither party thereto is given an
52 undue advantage over the other, and do not adversely affect
53 the public in this state.

54 The commission shall prescribe such rules and regulations as,
55 in its opinion, are necessary for the reasonable enforcement
56 and administration of this section, including the procedure to
57 be followed, the notice to be given of any hearing hereunder,

58 if it deems a hearing necessary, and after such hearing or in
59 case no hearing is required, the commission shall, if the public
60 will be inconvenienced thereby, enter such order as it may deem
61 proper and as the circumstances may require, attaching thereto
62 such conditions as it may deem proper, consent to the entering
63 into or doing of the things herein provided, without approving
64 the terms and conditions thereof, and thereupon it shall be
65 lawful to do the things provided for in such order.

66 Every assignment, transfer, lease, sale or other disposition
67 of the whole or any part of the franchises, licenses, permits,
68 plant, equipment, business or other property of any public
69 utility, or any merger or consolidation thereof and every con-
70 tract, purchase of stock, arrangement or other transaction re-
71 ferred to in this section made otherwise than as hereinbefore
72 provided shall be void to the extent that the interests of the
73 public in this state are adversely affected, but this shall not
74 be construed to relieve any utility from any duty required by
75 this section.

ARTICLE IV

Sec. 2. Any person, officer, agent or employee of any public
2 utility subject to this chapter who shall knowingly or wilfully

3 make any false entries in the accounts, account books, records
4 or memoranda kept by any public utility, or who shall know-
5 ingly or wilfully destroy or mutilate any account books, record
6 or memoranda useful for the enforcement or administration
7 of this chapter by the commission, or who shall alter or by
8 any other means or devise falsify the record of any such
9 accounts, account books, records or memoranda, or who shall
10 knowingly or wilfully neglect or fail to make full, true and
11 correct entries of or in such account, account book, record or
12 memoranda of all the facts and transactions appertaining to
13 such public utility, or who shall falsely make any statement
14 required to be made to the commission, shall be deemed guilty
15 of a felony, and, upon conviction thereof, shall be confined
16 in the penitentiary not less than one year nor more than five
17 years.

