

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1974

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ENROLLED

Committee Substitute for

SENATE BILL NO. 37

(By Mr. Oates)

—●—

PASSED March 9 1974

In Effect ninety days from Passage



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FILED IN THE OFFICE
EDGAR F. HEISKELL III
SECRETARY OF STATE

THIS DATE 3-19-74

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 37

(By MR. OATES, *original sponsor*)

[Passed March 9, 1974; in effect ninety days from passage.]

AN ACT to amend and reenact section four, article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the procedure for changing public utility rates; relating to the rate of interest to be paid by a public utility on a refund of all or a portion of money received from an increased rate; establishing a minimum and maximum rate of interest; authorizing the public service commission to specify the applicable interest rate; and establishing guidelines to be taken into account by the public service commission in specifying the applicable interest rate.

Be it enacted by the Legislature of West Virginia:

That section four, article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-4. Procedure for changing rates.

- 1 No public utility subject to this chapter shall change,
- 2 suspend or annul any rate, joint rate, charge, rental or
- 3 classification except after thirty days' notice to the com-

4 mission and the public, which notice shall plainly state
5 the changes proposed to be made in the schedule then in
6 force and the time when the changed rates or charges
7 shall go into effect; but the commission may enter an
8 order suspending the proposed rate as hereinafter pro-
9 vided. The proposed changes shall be shown by printing
10 new schedules, or shall be plainly indicated upon the
11 schedules in force at the time, and kept open to public
12 inspection: *Provided*, That the commission may, in its
13 discretion, and for good cause shown, allow changes upon
14 less time than the notice herein specified, or may modify
15 the requirements of this section in respect to publishing,
16 posting and filing of tariffs, either by particular instruc-
17 tions or by general order.

18 Whenever there shall be filed with the commission any
19 schedule stating a change in the rates or charges, or joint
20 rates or charges, or stating a new individual or joint rate
21 or charge or joint classification or any new individual or
22 joint regulation or practice affecting any rate or charge,
23 the commission shall have authority, either upon com-
24 plaint or upon its own initiative without complaint, to
25 enter upon a hearing concerning the propriety of such
26 rate, charge, classification, regulation or practice; and, if
27 the commission so orders, it may proceed without answer
28 or other form of pleading by the interested parties, but
29 upon reasonable notice, and, pending such hearing and
30 the decision thereon, the commission, upon filing with
31 such schedule and delivering to the public utility affected
32 thereby a statement in writing of its reasons for such
33 suspension, may suspend the operation of such schedule
34 and defer the use of such rate, charge, classification, regu-
35 lation or practice, but not for a longer period than one
36 hundred and twenty days beyond the time when such
37 rate, charge, classification, regulation or practice would
38 otherwise go into effect; and after full hearing, whether
39 completed before or after the rate, charge, classification,
40 regulation or practice goes into effect, the commission
41 may make such order in reference to such rate, charge,
42 classification, regulation or practice as would be proper
43 in a proceeding initiated after the rate, charge, classifi-
44 cation, regulation or practice had become effective: *Pro-*

45 *vided, however,* That if any such hearing and decision
46 thereon cannot be concluded within the period of suspen-
47 sion, as above stated, such rate, charge, classification,
48 regulation or practice shall go into effect at the end of
49 such period. In such case the commission may require
50 such public utility to enter into a bond in an amount
51 deemed by the commission to be reasonable and condi-
52 tioned for the refund to the persons or parties entitled
53 thereto of the amount of the excess, plus interest at the
54 rate of not less than six nor more than ten percent per-
55 annum as specified by the commission, if such rates so
56 put into effect are subsequently determined to be higher
57 than those finally fixed for such utility. In specifying the
58 applicable interest rate between the aforesaid minimum
59 and maximum, the commission shall be guided by the
60 interest rate which such public utility would in all prob-
61 ability have to agree to pay if such public utility at that
62 time borrowed in the marketplace a sum of money
63 equivalent to the amount of money the commission es-
64 timates the increase in rates will produce between the
65 effective date of such increase and the anticipated date
66 the rates will be finally fixed for such public utility, it
67 being intended that a public utility should be discouraged
68 from imposing higher rates than it should reasonably
69 anticipate will be finally fixed as a means in effect of
70 borrowing money at a rate of interest less than such
71 public utility would have to agree to pay if it borrowed
72 money in the marketplace. No such accrued interest paid
73 on any such refund shall be deemed part of the cost of
74 doing business in a subsequent application for changing
75 rates or any decision thereon. At any hearing involving
76 a rate sought to be increased or involving the change of
77 any fare, charge, classification, regulation or practice,
78 the burden of proof to show that the increased rate or
79 proposed increased rate, or the proposed change of fare,
80 charge, classification, regulation or practice is just and
81 reasonable shall be upon the public utility making ap-
82 plication for such change. When in any case pending
83 before the commission all evidence shall have been taken,
84 and the hearing completed, the commission shall, within
85 three months, render a decision in such case.

86 Where more than twenty members of the public are af-
87 fected by a proposed change in rates, it shall be a suf-
88 ficient notice to the public within the meaning of this
89 section if such notice is published as a Class II legal ad-
90 vertisement in compliance with the provision of article
91 three, chapter fifty-nine of this code, and the publication
92 area for such publication shall be the community where
93 the majority of the resident members of the public af-
94 fected by such change reside or, in case of nonresidents,
95 have their principal place of business within this state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

H. Samuel Darby
Chairman Senate Committee

Clarence C. Johnston Jr.
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Howard W. Carson
Clerk of the Senate

W. B. Blankenship
Clerk of the House of Delegates

H. T. Brotherton, Jr.
President of the Senate

Louis F. McHenry
Speaker House of Delegates

The within Approved this the 18th
March
day of _____, 1974.

Arch A. Shaefer, Jr.
Governor

PRESENTED TO THE
GOVERNOR

Date 3/14/74

Time 2:15 p.m.