WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1981

ENROLLED
SENATE BILL NO. 225

(By Mr. ________________)

PASSED __________________ 1981
In Effect __________________ Passage

SECRETARY OF STATE
OFFICE
RECEIVED
8 MAY 1981 12:31
AN ACT to amend and reenact section eleven, article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to grant by the public service commission of a certificate of public convenience and necessity; allowing waiver of formal hearing after specified notice; and allowing waiver of the notice requirement before filing for such certificate.

Be it enacted by the Legislature of West Virginia:

That section eleven, 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.

§24-2-11. Requirements for certificate of public convenience and necessity.

1 No public utility, person or corporation shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in section one, article two of this chapter, nor apply for, nor obtain any franchise, license or permit from any municipality or other governmental agency, except ordinary extensions of existing systems in the usual course of business, unless and until it shall obtain from the public service commission a certificate of public convenience and necessity requiring such construction, franchise, license or permit. Upon the filing of any application for such certificate, and after hearing, the commission may, in its discretion, issue or refuse to issue, or issue in part and refuse in part, such certificate of
convenience and necessity: Provided, That the commission, after it gives proper notice and if no protest is received within thirty days after the notice is given, may waive formal hearing on the application. Notice shall be given by publication which shall state that a formal hearing may be waived in the absence of protest, made within thirty days, to the application. The notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the proposed area of operation. Any public utility, person or corporation subject to the provisions of this section shall give the commission at least thirty days' notice of the filing of any such application for a certificate of public convenience and necessity under this section: Provided, That the commission may modify or waive the thirty-day notice requirement. The commission shall render its final decision on any application filed after the thirtieth day of June, one thousand nine hundred eighty-one, under the provisions of this section or section eleven-a of this article within two hundred seventy days of the filing of the application and within ninety days after final submission of any such application for decision following a hearing: Provided, That if the projected total cost of the project is greater than fifty million dollars, the commission shall render its final decision on any such application filed under the provisions of this section or section eleven-a of this article within four hundred days of the filing of the application and within ninety days after final submission of any such application for decision after a hearing. If such decision is not rendered within the aforementioned two hundred seventy days, four hundred days or ninety days, the commission shall issue a certificate of convenience and necessity as applied for in the application. The commission shall prescribe such rules and regulations as it may deem proper for the enforcement of the provisions of this section; and, in establishing that public convenience and necessity do exist, the burden of proof shall be upon the applicant.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

R. P. Baylor  
Chairman Senate Committee

Tony S. Whitlow  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

Todd C. Wells  
Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 29th day of April, 1981.

Governor