

APPROVED AND SIGNED BY THE GOVERNOR

Date 4-29-81

Time \_\_\_\_\_

No. 225

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1981



# ENROLLED

SENATE BILL NO. 225

(By Mr. Sumner)



PASSED April 9, 1981

In Effect from Passage

OFFICE  
SECY. OF STATE

81 MAY 1 12:14

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**ENROLLED**  
**Senate Bill No. 225**

(By MR. SUSMAN)

[Passed April 9, 1981; in effect from passage.]

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  
2 construction of any plant, equipment, property or facility for  
3 furnishing to the public any of the services enumerated in  
4 section one, article two of this chapter, nor apply for, nor  
5 obtain any franchise, license or permit from any municipality  
6 or other governmental agency, except ordinary extensions of  
7 existing systems in the usual course of business, unless and  
8 until it shall obtain from the public service commission a  
9 certificate of public convenience and necessity requiring  
10 such construction, franchise, license or permit. Upon the  
11 filing of any application for such certificate, and after hearing,  
12 the commission may, in its discretion, issue or refuse to issue,  
13 or issue in part and refuse in part, such certificate of

14 convenience and necessity: *Provided*, That the commission,  
15 after it gives proper notice and if no protest is received within  
16 thirty days after the notice is given, may waive formal hearing  
17 on the application. Notice shall be given by publication which  
18 shall state that a formal hearing may be waived in the absence  
19 of protest, made within thirty days, to the application. The  
20 notice shall be published as a Class I legal advertisement in  
21 compliance with the provisions of article three, chapter  
22 fifty-nine of this code. The publication area shall be the  
23 proposed area of operation. Any public utility, person or  
24 corporation subject to the provisions of this section shall give  
25 the commission at least thirty days' notice of the filing of any  
26 such application for a certificate of public convenience and  
27 necessity under this section: *Provided*, That the commission  
28 may modify or waive the thirty-day notice requirement. The  
29 commission shall render its final decision on any application  
30 filed after the thirtieth day of June, one thousand nine  
31 hundred eighty-one, under the provisions of this section or  
32 section eleven-a of this article within two hundred seventy  
33 days of the filing of the application and within ninety days  
34 after final submission of any such application for decision  
35 following a hearing: *Provided*, That if the projected total cost  
36 of the project is greater than fifty million dollars, the  
37 commission shall render its final decision on any such  
38 application filed under the provisions of this section or  
39 section eleven-a of this article within four hundred days of the  
40 filing of the application and within ninety days after final  
41 submission of any such application for decision after a  
42 hearing. If such decision is not rendered within the  
43 aforementioned two hundred seventy days, four hundred  
44 days or ninety days, the commission shall issue a certificate of  
45 convenience and necessity as applied for in the application.  
46 The commission shall prescribe such rules and regulations as  
47 it may deem proper for the enforcement of the provisions of  
48 this section; and, in establishing that public convenience and  
49 necessity do exist, the burden of proof shall be upon the  
50 applicant.

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

*R. P. Baylor*  
Chairman Senate Committee

*Tony E. Whitlow*  
Chairman House Committee

Originated in the Senate.

To take effect from passage.

*Todd C. Willis*  
Clerk of the Senate

*V. Blankenship*  
Clerk of the House of Delegates

*Montgomery*  
President of the Senate

*Ime R. Lee, Jr.*  
Speaker House of Delegates

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

*James I. Dyer*  
Governor

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