

No. 165

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986

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ENROLLED

*Finance Committee Substitute for Energy, Industry and Mining Committee
Substitute for* SENATE BILL NO. 165

(By Senator.....*Spears, et al*.....)

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PASSED*March 8,*..... 1986

In Effect.....*July 1, 1986*..... Passage



ENROLLED
FINANCE
COMMITTEE SUBSTITUTE
FOR
ENERGY, INDUSTRY AND MINING
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 165

(SENATORS SPEARS, TONKOVICH, MR. PRESIDENT, TOMBLIN, LUCHT,
HARMAN, COOK, JARRELL, WHITACRE, SHARPE, JONES, HOLMES, FANNING,
YANERO AND KARRAS, *original sponsors*)

[Passed March 8, 1986; to take effect July 1, 1986.]

AN ACT to amend and reenact section ten-a, article thirteen-b, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said chapter by adding thereto a new article, designated thirteen-g; to amend article twenty-four of said chapter by adding thereto a new section, designated section eleven-a; and to amend chapter twenty-four of said code by adding thereto a new article, designated article two-c, all relating generally to providing low-cost telephone service to qualified low-income residential customers; allowing certain tax credits to reimburse telephone utilities for revenue deficiencies incurred in providing such low-cost telephone service; legislative findings and purpose; telephone utilities subject

to public service commission to file new tariffs; low-cost service to be known as tel-assistance service; definitions; monthly rate for such service; certain charges and service prohibited; eligibility for such service; rules and regulations to be promulgated by the public service commission and department of human services; and recovery of revenue deficiencies.

Be it enacted by the Legislature of West Virginia:

That section ten-a, article thirteen-b, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that said chapter be further amended by adding thereto a new article, designated article thirteen-g; that article twenty-four of said chapter be amended by adding thereto a new section, designated section eleven-a; and that chapter twenty-four of said code be amended by adding thereto a new article, designated article two-c, all to read as follows:

ARTICLE 13B. TELECOMMUNICATIONS TAX.

§11-13B-10a. Tax credit for business investment and jobs expansion; credit for eligible research and development projects; credit for coal-loading facilities; credit for reducing telephone rates for certain low-income residential customers; rules; effective date.

- 1 (a) There shall be allowed as a credit against the tax
- 2 imposed by this article for the taxable year, the amount
- 3 determined under articles thirteen-c, thirteen-d and
- 4 thirteen-g of this chapter, relating respectively to:
- 5 (1) Tax credit for business investment and jobs
- 6 expansion;
- 7 (2) Tax credit for eligible research and development
- 8 projects;
- 9 (3) Tax credit for coal-loading facilities; and
- 10 (4) Tax credit for reducing telephone utility rates for
- 11 certain low-income residential customers.
- 12 (b) The tax commissioner shall prescribe such rules as
- 13 he considers necessary to carry out the purposes of this
- 14 section and articles thirteen-c, thirteen-d and thirteen-g of
- 15 this chapter.

**ARTICLE 13G. TAX CREDIT FOR REDUCING TELEPHONE UTILITY
RATES FOR CERTAIN LOW-INCOME RESIDENTIAL
CUSTOMERS.**

§11-13G-1. Legislative purpose.

1 In order to reimburse telephone utilities for the revenue
2 deficiencies which they incur in providing telephone
3 service at special reduced rates to certain low-income
4 residential customers in accordance with the provisions of
5 article two-c, chapter twenty-four of this code, there is
6 hereby provided a tax credit for providing telephone service
7 at special rates to qualified low-income residential
8 customers.

§11-13G-2. Definitions.

1 (a) Any term used in this article shall have the same
2 meaning as when used in a comparable context in articles
3 twelve-a and thirteen-b of this chapter, unless a different
4 meaning is clearly required by the context in which it is
5 used or by definition in this article.

6 (b) As used in this article, the term:

7 (1) "Eligible taxpayer" means a utility which has
8 provided telephone service to qualified low-income
9 residential customers at special reduced rates.

10 (2) "Cost of providing telephone service at special
11 reduced rates" means the amount certified by the public
12 service commission under the provisions of section two,
13 article two-c, chapter twenty-four of this code as the
14 revenue deficiency incurred by a telephone utility in
15 providing telephone service at special reduced rates as
16 required by section one, article two-c, chapter twenty-four
17 of this code.

18 (3) "Special reduced rates" means the rates ordered by
19 the public service commission under the authority of
20 section one, article two-c, chapter twenty-four of this code.

21 (4) "Qualified low-income residential customers"
22 means customers eligible to receive telephone service at
23 special reduced rates.

§11-13G-3. Amount of credit.

1 There shall be allowed to any eligible taxpayer a credit
2 against the carrier income tax imposed by article twelve-a
3 of this chapter or telecommunications tax imposed by

4 article thirteen-b of this chapter, whichever such tax may
5 be imposed upon the eligible taxpayer, for providing
6 telephone service at special reduced rates to qualified low-
7 income residential customers. The amount of the credit
8 available to any eligible taxpayer shall be equal to its cost of
9 providing telephone service at special reduced rates to
10 qualified low-income residential customers less any
11 reimbursement of such cost which the taxpayer has
12 received through other means.

§11-13G-4. When credit may be taken.

1 An eligible taxpayer may claim a credit allowed under
2 section three of this article against its tax liability for the
3 taxable year for which it receives certification of the
4 amount of its revenue deficiency from the public service
5 commission.

§11-13G-5. Application of credit.

1 (a) Any unused portion of a credit allowed under this
2 article may be taken as a credit against corporation net
3 income taxes due for the taxable year as provided in section
4 eleven-a, article twenty-four of this chapter.

5 (b) If any portion of the amount certified as the eligible
6 taxpayer's revenue deficiency by the public service
7 commission is not recovered under subsection (a) hereof,
8 the unrecovered amount may be carried over to the
9 subsequent year as a tax credit as allowed by section three
10 of this article and shall be applied as a credit before any
11 other credits for that year are applied.

12 (c) In no event shall an eligible taxpayer be allowed to
13 recover more than one hundred percent of its certified
14 revenue deficiency.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-11a. Credit for reducing telephone utility rates for low-income residential customers.

1 (a) *General.* — A credit shall be allowed against the
2 primary tax liability of an eligible taxpayer under this
3 article for the cost of providing telephone service at special
4 reduced rates to qualified low-income residential
5 customers which has not been reimbursed by any other
6 means.

7 (b) *Definitions.* — For purposes of this section, the term:

8 (1) “Eligible taxpayer” means a utility which has
9 provided telephone service to qualified low-income
10 residential customers at special reduced rates.

11 (2) “Cost of providing telephone service at special
12 reduced rates” means the amount certified by the public
13 service commission under the provisions of section two,
14 article two-c, chapter twenty-four of this code, as the
15 revenue deficiency incurred by a telephone utility in
16 providing telephone service at special reduced rates, as
17 required by section one, article two-c, chapter twenty-four
18 of this code.

19 (3) “Special reduced rates” means the rates ordered by
20 the public service commission under the authority of
21 section one, article two-c, chapter twenty-four of this code.

22 (4) “Qualified low-income residential customers”
23 means customers eligible to receive telephone service at
24 special reduced rates.

25 (c) *Amount of credit.* — The amount of the credit
26 available to any eligible taxpayer shall be equal to its cost of
27 providing telephone service at special reduced rates to
28 qualified low-income residential customers less any
29 reimbursement of such cost which the taxpayer has
30 received through any other means.

31 (d) *When credit may be taken.* — An eligible taxpayer
32 may claim a credit allowed under this section on its annual
33 return for the taxable year for which it receives
34 certification of the amount of its revenue deficiency from
35 the public service commission.

36 Notwithstanding the provisions of section sixteen of this
37 article to the contrary, no credit may be claimed on any
38 declaration of estimated tax filed for such taxable year
39 prior to the first day of July of such taxable year. Such
40 credit may be claimed on a declaration or amended
41 declaration filed on or after such date, but only if the
42 amount certified will not be recovered by application of the
43 tax credit allowed by article thirteen-g of this chapter. In
44 such event, only that amount not recovered by the tax credit
45 allowed by article thirteen-g of this chapter may be
46 considered or taken as a credit when estimating the tax due
47 under this article. In no event may the eligible taxpayer
48 recover more than one hundred percent of its revenue
49 deficiency as certified by the public service commission.

50 (e) *Application of credit.* — The credit allowable by this
51 section for a taxable year is not subject to the fifty percent
52 limitation specified in section nine of this article.
53 Notwithstanding the provisions of section four, article
54 thirteen-g of this chapter, any unused credit may be carried
55 over and applied against the eligible taxpayer's tax liability
56 in the manner specified in section five, article thirteen-g of
57 this chapter.

58 (f) *Copy of certification order.* — A copy of the
59 certification order from the public service commission shall
60 be attached to any annual return on which a credit allowed
61 by this section is taken.

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2C. REDUCED RATES FOR CERTAIN LOW-INCOME RESIDENTIAL CUSTOMERS OF TELEPHONE SER- VICE.

§24-2C-1. Legislative findings; utilities subject to public service commission to file new rates.

1 The Legislature finds that universal telephone service
2 contributes to the state's economic, social and political
3 integration and development. The preservation of universal
4 telephone service is therefore of utmost importance to the
5 state and its citizens.

6 Recent changes in the telecommunications industry,
7 however, both in its structure and in the national policy
8 which governs it, have begun to exert a general, upward
9 pressure on the rates for basic telephone service. Although
10 neither the extent to which basic telephone rates may rise in
11 the future, nor the effect of any such future increases on the
12 general affordability of telephone service can be
13 ascertained at this time, the Legislature finds that
14 anticipatory action should nonetheless be taken to preserve
15 the universal telephone service which has been
16 substantially achieved in this state.

17 All telephone utilities, except cooperative telephone
18 utilities, providing local exchange dial access line service
19 subject to the jurisdiction of the public service commission
20 are therefore directed to file with the commission tariffs
21 providing for the offering of a new class of basic residential
22 service, at a special reduced rate, to certain low-income

23 households. Such tariffs shall be filed after the adoption of
24 the rules and regulations mandated by subsections (b) and
25 (c), section four of this article.

§24-2C-2. Tel-assistance; definitions.

1 The new service herein provided for is known as "tel-
2 assistance service" and consists of an individual,
3 residential local exchange dial access line and an allowance
4 for usage not to exceed two dollars in value. As used in this
5 article, the term "usage" means the local exchange service
6 and the long distance service provided by the telephone
7 utility furnishing the tel-assistance service. In any instance
8 in which an individual measured or message line cannot be
9 provided to the customer, party-line service shall be
10 provided at the tel-assistance rate until such time as an
11 individual measured or message line can be provided.

**§24-2C-3. Monthly rate set by public service commission;
prohibited and permissible charges.**

1 The monthly rate for tel-assistance service shall be set
2 initially by the commission at the lower of (a) the lowest
3 priced service available to the customer at the time of his or
4 her application, or (b) seven dollars and fifty cents. All
5 usage exceeding two dollars in value shall be charged for at
6 the otherwise applicable tariff rate. No other local voice
7 telephone service may be provided to the dwelling place of a
8 tel-assistance customer, nor may individual line foreign
9 zone or foreign exchange service be provided to a tel-
10 assistance customer. A telephone utility may not impose an
11 order processing charge or line charge when an existing
12 customer who is eligible for tel-assistance service changes
13 to such service, nor may any charge be made when a tel-
14 assistance service customer loses his or her eligibility and
15 changes to another class of residential service. However,
16 charges for the initial installation of service for a new
17 customer, or charges for moving a customer's service from
18 one dwelling place to another shall be made at the otherwise
19 applicable tariff rate. The commission may, upon having set
20 the rate initially for tel-assistance service as herein
21 provided, change such rate from time to time upon a finding
22 that is reasonable to do so, and may, in connection
23 therewith increase or decrease the amount of local service
24 usage provided as a part thereof.

§24-2C-4. Availability of tel-assistance service; determination of eligibility; promulgation of rules.

- 1 (a) Tel-assistance service shall be made available only
- 2 to qualified low-income customers who are:
- 3 (1) Either disabled or age sixty or older; and
- 4 (2) Social security supplemental security income
- 5 benefit recipients, aid to dependent children (AFDC)
- 6 benefit recipients, aid to dependent children-unemployed
- 7 (AFDC-U) benefit recipients, food stamp recipients or
- 8 whose total household income is at or below the income
- 9 level established for social security supplemental security
- 10 income eligibility.
- 11 (b) The public service commission shall establish, by
- 12 rules and regulations, procedures governing the application
- 13 for and the provision of tel-assistance service and the
- 14 determination and certification of the revenue deficiency
- 15 resulting from the provision of tel-assistance service,
- 16 including, but not limited to, rules and regulations
- 17 determining both the methods by which telephone utilities
- 18 shall maintain records pertaining to such deficiency and the
- 19 methods by which such deficiency shall be calculated. Such
- 20 rules and regulations shall be promulgated pursuant to
- 21 section seven, article one of this chapter and adopted within
- 22 one hundred twenty days of the effective date of this article.
- 23 (c) The department of human services shall establish, by
- 24 rules and regulations, procedures to inform persons of their
- 25 eligibility for tel-assistance service, to assist applicants for
- 26 tel-assistance service in proving their eligibility therefor,
- 27 and to determine on a continuing basis the eligibility of
- 28 persons receiving tel-assistance service and communicate
- 29 such determinations to the telephone utilities. Initially,
- 30 such rules and regulations shall be adopted and filed in the
- 31 state register within one hundred twenty days of the
- 32 effective date of this article and shall not otherwise be
- 33 subject to the requirements of chapter twenty-nine-a of this
- 34 code. Such rules and regulations initially adopted shall
- 35 become effective immediately upon filing in the state
- 36 register and remain in effect until supplanted by legislative
- 37 rules promulgated pursuant to chapter twenty-nine-a of
- 38 this code. Final approved legislative rules shall be
- 39 submitted by the department of human services to the

40 legislative rule-making review committee on or before the
41 first day of August, one thousand nine hundred eighty-
42 seven.

§24-2C-5. Recovery of revenue deficiencies.

1 In order to provide the special reduced rate mandated by
2 section one of this article and still maintain the integrity of
3 the earnings of the utilities offering tel-assistance service,
4 the commission shall determine, upon application by any
5 affected utility, that utility's revenue deficiency for the
6 utility's taxable year resulting from the special reduced
7 rates. Upon determining any utility's revenue deficiency,
8 the commission shall issue an order certifying the amount of
9 that deficiency. Certified revenue deficiencies shall
10 thereafter be recovered by the affected utilities as follows:

11 (a) A utility's certified revenue deficiency, if any,
12 resulting from the provision of tel-assistance service shall
13 be allowed as a tax credit against the liability of the utility
14 pursuant to the provisions of article thirteen-g, chapter
15 eleven of this code.

16 (b) After allowance of such a tax credit pursuant to the
17 provisions of article thirteen-g, chapter eleven of this code,
18 a utility's remaining certified revenue deficiency, if any,
19 resulting from the provision of tel-assistance service shall
20 be allowed as a tax credit against the liability of the utility
21 pursuant to the provisions of section eleven-a, article
22 twenty-four, chapter eleven of this code.

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

Bruce O. Wellborn
.....
Chairman Senate Committee

Floyd Fuller
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1986.

Todd C. Smith
.....
Clerk of the Senate

Donald T. Kopp
.....
Clerk of the House of Delegates

Don Tonkovich
.....
President of the Senate

Joseph P. Allright
.....
Speaker House of Delegates

The within *approved* this the *26th*
day of *March*, 1986.
Arch A. Moore
.....
Governor

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SECRETARY OF STATE

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WEST VIRGINIA

THIS DATE 3/26/86

PRESENTED TO THE

GOVERNOR

Date 3/21/86

Time 5:13 p.m.

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THIS DATE 3/26/86