

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1986



ENROLLED

SENATE BILL NO. 302

(By Senator Fanning)



PASSED March 8, 1986

In Effect from Passage



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(BY SENATOR FANNING)

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AN ACT to amend and reenact section four-b, 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 rates of electric, natural gas and telephone cooperatives and municipally operated public utilities.

Be it enacted by the Legislature of West Virginia:

That section four-b, 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.

§24-2-4b. Procedures for changing rates of electric, natural gas, telephone cooperatives and municipally operated public utilities.

1 (a) Electric cooperatives, natural gas cooperatives,
2 telephone cooperatives and municipally operated public
3 utilities are not subject to the rate approval provisions of
4 section four or four-a of this article but are subject to the
5 limited rate provisions of this section.

6 (b) All rates and charges set by electric cooperatives,
7 natural gas cooperatives, telephone cooperatives and
8 municipally operated public utilities shall be just,

9 reasonable, applied without unjust discrimination or
10 preference and based primarily on the costs of providing
11 these services. Such rates and charges shall be adopted by
12 the electric, natural gas or telephone cooperative's
13 governing board and in the case of the municipally operated
14 public utility by municipal ordinance to be effective not
15 sooner than forty-five days after adoption: *Provided*, That
16 notice of intent to effect a rate change shall be specified on
17 the monthly billing statement of the customers of such
18 utility for the month next preceding the month in which the
19 rate change is to become effective or the utility shall give its
20 customers, and in the case of a cooperative, its customers,
21 members and stockholders, such other reasonable notices
22 as will allow filing of timely objections to such rate change.
23 Such rates and charges shall be filed with the commission
24 together with such information showing the basis of such
25 rates and charges and such other information as the
26 commission considers necessary. Any change in such rates
27 and charges with updated information shall be filed with
28 the commission. If a petition, as set out in subdivision (1), (2)
29 or (3), subsection (c) of this section, is received and the
30 electric cooperative, natural gas cooperative, telephone
31 cooperative, or municipality has failed to file with the
32 commission such rates and charges with such information
33 showing the basis of rates and charges and such other
34 information as the commission considers necessary, the
35 suspension period limitation of one hundred twenty days
36 and the one hundred day period limitation for issuance of
37 an order by a hearing examiner, as contained in subsections
38 (d) and (e) of this section, is tolled until the necessary
39 information is filed. The electric cooperative, natural gas
40 cooperative, telephone cooperative or municipality shall set
41 the date when any new rate or charge is to go into effect.
42 (c) The commission shall review and approve or modify
43 such rates upon the filing of a petition within thirty days of
44 the adoption of the ordinance or resolution changing said
45 rates or charges by:

46 (1) Any customer aggrieved by the changed rates or
47 charges who presents to the commission a petition signed by
48 not less than twenty-five percent of the customers served by
49 such municipally operated public utility, or twenty-five
50 percent of the membership of the electric, natural gas or
51 telephone cooperative residing within the state; or

52 (2) Any customer who is served by a municipally
53 operated public utility and who resides outside the
54 corporate limits and who is affected by the change in said
55 rates or charges and who presents to the commission a
56 petition alleging discrimination between customers within
57 and without the municipal boundaries. Said petition shall
58 be accompanied by evidence of discrimination; or

59 (3) Any customer or group of customers who are
60 affected by said change in rates who reside within the
61 municipal boundaries and who present a petition to the
62 commission alleging discrimination between said customer
63 or group of customers and other customers of the municipal
64 utility. Said petition shall be accompanied by evidence of
65 discrimination.

66 (d) (1) The filing of a petition with the commission
67 signed by not less than twenty-five percent of the customers
68 served by the municipally operated public utility, or
69 twenty-five percent of the membership of the electric,
70 natural gas or telephone cooperative residing within the
71 state, under subdivision (1), subsection (c) of this section,
72 shall suspend the adoption of the rate change contained in
73 the ordinance or resolution for a period of one hundred
74 twenty days from the date said rates or charges would
75 otherwise go into effect, or until an order is issued as
76 provided herein.

77 (2) Upon sufficient showing of discrimination by
78 customers outside the municipal boundaries, or a customer
79 or a group of customers within the municipal boundaries,
80 under a petition filed under subdivision (2) or (3),
81 subsection (c) of this section, the commission shall suspend
82 the adoption of the rate change contained in the ordinance
83 for a period of one hundred twenty days from the date said
84 rates or charges would otherwise go into effect or until an
85 order is issued as provided herein.

86 (e) The commission shall forthwith appoint a hearing
87 examiner from its staff to review the grievances raised by
88 the petitioners. Said hearing examiner shall conduct a
89 public hearing, and shall within one hundred days from the
90 date the said rates or charges would otherwise go into
91 effect, unless otherwise tolled as provided in subsection (b)
92 of this section, issue an order approving, disapproving or
93 modifying in whole or in part, the rates or charges imposed
94 by the electric, natural gas or telephone cooperative or by

95 the municipally operated public utility pursuant to this
96 section.

97 (f) Upon receipt of a petition for review of the rates
98 under the provisions of subsection (c) of this section, the
99 commission may exercise the power granted to it under the
100 provisions of section three of this article. The commission
101 may determine the method by which such rates are
102 reviewed and may grant and conduct a de novo hearing on
103 the matter if the customer, electric, natural gas or telephone
104 cooperative or municipality requests such a hearing.

105 (g) The commission may, upon petition by a
106 municipality or electric, natural gas or telephone
107 cooperative, allow an interim or emergency rate to take
108 effect, subject to future modification, if it is determined
109 that such interim or emergency rate is necessary to protect
110 the municipality from financial hardship and if that
111 financial hardship is attributable solely to the purchase of
112 the utility commodity sold. In such cases, the commission
113 may waive the forty-five-day waiting period provided for in
114 subsection (b) of this section and the one hundred twenty-
115 day suspension period provided for in subsection (d) of this
116 section.

117 (h) Notwithstanding any other provision, the
118 commission shall have no authority or responsibility with
119 regard to the regulation of rates, income, services or
120 contracts by municipally operated public utilities for
121 services which are transmitted and sold outside of the state
122 of West Virginia.

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

Bruce O. Williams
.....
Chairman Senate Committee

Floyd Fulber
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

Sold C. Miller
.....
Clerk of the Senate

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

Don Tonkonil
.....
President of the Senate

Joseph P. Albright
.....
Speaker House of Delegates

The within *Approved* this the *25th*
Shank
day of 1986.

Arthur M. Shores Jr.
.....
Governor



PRESENTED TO THE

GOVERNOR

Date 3/20/06

Time 11:02 a.m.

PROCEIVED

1986 MAR 26 PM 4: 30

OFFICE OF THE
SECRETARY OF STATE

FILED IN THE OFFICE OF
SECRETARY OF STATE OF
WEST VIRGINIA

THIS DATE 3/26/86