WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989

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ENROLLED

Com. Sub. for
HOUSE BILL No. 2621

(By Mr. Speaker, Mr. Chamber and Del. Barks
[By Request of the Executive])

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Passed April 8, 1989

In Effect Passage
AN ACT to amend article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto two new sections, designated sections one-d and one-e, all relating to future electric generating capacity requirements of electric utilities in West Virginia and rate recovery for construction of electric transmission facilities.

Be it enacted by the Legislature of West Virginia:

That article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto two new sections, designated sections one-d and one-e, all to read as follows:

CHAPTER 24. PUBLIC SERVICE COMMISSION.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1d. Future electric generating capacity requirements.

1 (a) In order to maximize the use of electricity generated within the state by using coal or natural gas
produced within the state, the public service commission shall by order, no later than the thirty-first day of December, one thousand nine hundred eighty-nine, establish the schedule and amount of future electric generating capacity additions required by each West Virginia electric utility, for the next ten years, taking into account: (i) Projected load growth; (ii) existing generating capacity; (iii) existing contractual commitments to sell or purchase capacity; (iv) planned retirement and life extensions of existing capacity; (v) planned construction of capacity; (vi) availability of capacity from generating units of affiliated companies; and (vii) such other reasonable factors as the commission may deem relevant and appropriate to consider.

(b) If the commission determines after considering all such named and other relevant and appropriate factors that a utility will be required to purchase electric generating capacity beyond those agreements approved by the Federal Energy Regulatory Commission or the West Virginia public service commission in order to serve its West Virginia customers, the amount of such required additional purchased capacity so identified by the commission will for purposes of this section be referred to as the utility’s “projected deficient capacity”: Provided, That this subsection shall not include power generating facilities whose total production of electricity is sold outside the state of West Virginia.

(c) In the interests of: Keeping utility rates of residential customers as low as possible; keeping utility rates for commercial and industrial customers competitive with those of other states; attracting new industry for which electric power costs are a major factor in location determinations; and of not placing any greater cost burden on government than is absolutely necessary for its electric power needs, each utility shall acquire, if reasonable, its projected deficient capacity from electric generation situate in West Virginia which burns coal or gas produced in West Virginia and which will provide the most reliable supply of capacity and energy at the least cost to those customers of the utility who will be served by such electric generation: Provided, That all
power purchase contracts executed prior to the effective
date of this section which satisfy the following require-
ments, regardless of location, shall be considered, for the
purposes of this subsection, as electric generation situate
in West Virginia: (1) Said contracts were negotiated in
accordance with procedures and priced according to
methodologies of other contracts which the commission
has ordered approved; (2) said contracts either guaran-
tee or are substantially amended to guarantee for the
life of the contract the use of an amount of West
Virginia fuel which equals or exceeds the amount which
would be required, on a percentage of output basis, to
produce the amount of electric power to be consumed
in West Virginia; and (3) said contracts meet the
requirements for a qualifying facility established by the
Federal Energy Regulatory Commission pursuant to the

§24-2-1e. Rate recovery for construction of electric
transmission facilities.

In order to encourage the construction of transmission
facilities necessary to transmit electric power from
generating facilities located in this state to areas where
such power can be economically marketed, the commis-
sion may allow an electric utility accelerated rate
recovery for transmission facilities constructed or
upgraded for the purpose of increasing the capacity to
transmit electric power to areas outside the utility's
service territory where such power can be economically
marketed. In allowing accelerated rate recovery, the
commission shall include the impact of the investment
in transmission facilities on any investment equalization
agreement in which the utilities participate.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originating in the House.

Takes effect from passage.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker of the House of Delegates

The within is approved this the 24th day of April 1989.

[Signature]
Governor