WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990

ENROLLED
Committee Substitute for
SENATE BILL NO. 310

(By Senator _______)

PASSED ________ March 7, 1990
In Effect ________ 30 days from Passage
ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 310
(By Senator Hawse, original sponsor)

[Passed March 7, 1990; in effect ninety days from passage.]

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 conferring ratemaking jurisdiction for access charges of telephone cooperatives upon the public service commission.

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 and natural gas cooperatives, local exchange services of telephone cooperatives and municipally operated public utilities.

1 (a) The rates and charges of electric cooperatives, natural gas cooperatives and municipally operated public utilities, except for municipally operated com-
commercial solid waste facilities as defined in section two-h, article five-f, chapter twenty of this code, and the rates and charges for local exchange services provided by telephone cooperatives are not subject to the rate approval provisions of section four or four-a of this article, but are subject to the limited rate provisions of this section.

(b) All rates and charges set by electric cooperatives, natural gas cooperatives and municipally operated public utilities and all rates and charges for local exchange services set by telephone cooperatives shall be just, reasonable, applied without unjust discrimination or preference and based primarily on the costs of providing these services. Such rates and charges shall be adopted by the electric, natural gas or telephone cooperative’s governing board and in the case of the municipally operated public utility by municipal ordinance to be effective not sooner than forty-five days after adoption: Provided, That notice of intent to effect a rate change shall be specified on the monthly billing statement of the customers of such utility for the month next preceding the month in which the rate change is to become effective or the utility shall give its customers, and in the case of a cooperative, its customers, members and stockholders, such other reasonable notices as will allow filing of timely objections to such rate change. Such rates and charges shall be filed with the commission together with such information showing the basis of such rates and charges and such other information as the commission considers necessary. Any change in such rates and charges with updated information shall be filed with the commission. If a petition, as set out in subdivision (1), (2) or (3), subsection (c) of this section, is received and the electric cooperative, natural gas cooperative, telephone cooperative or municipality has failed to file with the commission such rates and charges with such information showing the basis of rates and charges and such other information as the commission considers necessary, the suspension period limitation of one hundred twenty days and the one hundred day period limitation for issuance of an order by a hearing
examiner, as contained in subsections (d) and (e) of this section, is tolled until the necessary information is filed. The electric cooperative, natural gas cooperative, telephone cooperative or municipality shall set the date when any new rate or charge is to go into effect.

(c) The commission shall review and approve or modify such rates upon the filing of a petition within thirty days of the adoption of the ordinance or resolution changing said rates or charges by:

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

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

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

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

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

(e) The commission shall forthwith appoint a hear-
ing examiner from its staff to review the grievances
raised by the petitioners. Said hearing examiner shall
conduct a public hearing, and shall within one hun-
dred days from the date the said rates or charges
would otherwise go into effect, unless otherwise tolled
as provided in subsection (b) of this section, issue an
order approving, disapproving or modifying, in whole
or in part, the rates or charges imposed by the electric,
natural gas or telephone cooperative or by the munic-
ipally operated public utility pursuant to this section.

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

(g) The commission may, upon petition by a munic-
ipality or electric, natural gas or telephone coopera-
tive, allow an interim or emergency rate to take effect,
subject to future modification, if it is determined that
such interim or emergency rate is necessary to protect
the municipality from financial hardship and if that
financial hardship is attributable solely to the pur-
chase of the utility commodity sold. In such cases, the commission may waive the forty-five-day waiting period provided for in subsection (b) of this section and the one hundred twenty-day suspension period provided for in subsection (d) of this section.

(h) Notwithstanding any other provision, the commission shall have no authority or responsibility with regard to the regulation of rates, income, services or contracts by municipally operated public utilities for services which are transmitted and sold outside of the state of West Virginia.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within was approved this the ..............

day of ...........................................

Governor