

WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1990



ENROLLED

Committee Substitute for
SENATE BILL NO. 310

(By Senator *Sause*)



PASSED *March 7,* 1990

In Effect *90 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,
- 2 natural gas cooperatives and municipally operated
- 3 public utilities, except for municipally operated com-

4 mercial solid waste facilities as defined in section two-
5 h, article five-f, chapter twenty of this code, and the
6 rates and charges for local exchange services provided
7 by telephone cooperatives are not subject to the rate
8 approval provisions of section four or four-a of this
9 article, but are subject to the limited rate provisions of
10 this section.

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

46 examiner, as contained in subsections (d) and (e) of
47 this section, is tolled until the necessary information is
48 filed. The electric cooperative, natural gas cooperative,
49 telephone cooperative or municipality shall set the
50 date when any new rate or charge is to go into effect.

51 (c) The commission shall review and approve or
52 modify such rates upon the filing of a petition within
53 thirty days of the adoption of the ordinance or resolu-
54 tion changing said rates or charges by:

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

62 (2) Any customer who is served by a municipally
63 operated public utility and who resides outside the
64 corporate limits and who is affected by the change in
65 said rates or charges and who presents to the commis-
66 sion a petition alleging discrimination between custo-
67 mers within and without the municipal boundaries.
68 Said petition shall be accompanied by evidence of
69 discrimination; or

70 (3) Any customer or group of customers who are
71 affected by said change in rates who reside within the
72 municipal boundaries and who present a petition to
73 the commission alleging discrimination between said
74 customer or group of customers and other customers
75 of the municipal utility. Said petition shall be accom-
76 panied by evidence of discrimination.

77 (d) (1) The filing of a petition with the commission
78 signed by not less than twenty-five percent of the
79 customers served by the municipally operated public
80 utility, or twenty-five percent of the membership of
81 the electric, natural gas or telephone cooperative
82 residing within the state, under subdivision (1),
83 subsection (c) of this section, shall suspend the adop-
84 tion of the rate change contained in the ordinance or
85 resolution for a period of one hundred twenty days

86 from the date said rates or charges would otherwise go
87 into effect, or until an order is issued as provided
88 herein.

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

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

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

119 (g) The commission may, upon petition by a munic-
120 ipality or electric, natural gas or telephone coopera-
121 tive, allow an interim or emergency rate to take effect,
122 subject to future modification, if it is determined that
123 such interim or emergency rate is necessary to protect
124 the municipality from financial hardship and if that
125 financial hardship is attributable solely to the pur-

126 chase of the utility commodity sold. In such cases, the
127 commission may waive the forty-five-day waiting
128 period provided for in subsection (b) of this section
129 and the one hundred twenty-day suspension period
130 provided for in subsection (d) of this section.

131 (h) Notwithstanding any other provision, the com-
132 mission shall have no authority or responsibility with
133 regard to the regulation of rates, income, services or
134 contracts by municipally operated public utilities for
135 services which are transmitted and sold outside of the
136 state of West Virginia.

Enr. Com. Sub. for S. B. No. 310] 6

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

Frederick L. Parker
.....
Chairman Senate Committee

Bernard V. Kelly
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Harold E. Clark
.....
Clerk of the Senate

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

Will Sandell
.....
President of the Senate

Russell C. Brown
.....
Speaker House of Delegates

The within *is approved* this the *19th* day of *March* 1990

Walter C. Cameron
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/12/90

Time 10:30 a.

RECEIVED

1990 MAR 13 AM 11: 25

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE