ENROLLED
Committee Substitute for

SENATE BILL NO. 422

(By Senator Chafin)

PASSED March 8, 2003

In Effect 90 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 broadening the power of the public service commission to allow an emergency rate for a municipality or a utility cooperative.

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.

(a) The rates and charges of electric cooperatives, natural gas cooperatives and municipally operated public utilities, except for municipally operated commercial solid waste facilities as defined in section two, article fifteen, chapter twenty-two 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. The 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 the 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, other reasonable notices as will allow filing of timely objections to the rate change. The rates and charges shall be filed with the commission, together with any information showing the basis of the rates and charges and other information as the commission considers necessary. Any change in the 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 the rates and charges with information
showing the basis of rates and charges and other informa-
tion 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
the rates upon the filing of a petition within thirty days of
the adoption of the ordinance or resolution changing the
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 the municipally operated public utility or
twenty-five percent of the membership of the electric,
natural gas or telephone cooperative residing within the
state;

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

(3) Any customer or group of customers who are affected
by the change in rates who reside within the municipal
boundaries and who present a petition to the commission
alleging discrimination between customer or group of
customers and other customers of the municipal utility.
The 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 the 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 municipal boundaries under a petition filed under subdivision (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 the rates or charges would otherwise go into effect or until an order is issued as provided herein.

(e) The commission shall forthwith appoint a hearing examiner from its staff to review the grievances raised by the petitioners. The hearing examiner shall conduct a public hearing and shall, within one hundred days from the date the 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 municipally 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 the rates are reviewed and may grant and conduct a de novo hearing on the matter if the customer, electric, natural gas or telephone cooperative or municipality requests a hearing.

(g) The commission may, upon petition by a municipality or electric, natural gas or telephone cooperative, allow an interim or emergency rate to take effect, subject to refund or future modification, if it is determined that the interim or emergency rate is necessary to protect the municipality from financial hardship attributable to the purchase of the utility commodity sold, or the commission determines that a temporary or interim rate increase is necessary for the utility to avoid financial distress. In such cases, the commission may waive the 45-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 has 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 is approved this the 1st Day of April, 2003.

Governor
PRESENTED TO THE GOVERNOR

Date 3/27/03

Time 10:10 AM