WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2005

ENROLLED

House Bill No. 2813
(By Mr. Speaker, Mr. Kiss, and Delegate Trump)
[By Request of the Executive]

Passed April 5, 2005
In Effect from Passage
AN ACT to amend and reenact §24-2-11 of the Code of West Virginia, 1931, as amended, relating to requirements for certificate of public convenience and necessity; and removing the prohibition for electric power projects on applying for and obtaining franchises, licenses or permits prior to obtaining a certificate of public convenience and necessity from the Public Service Commission.

Be it enacted by the Legislature of West Virginia:

That §24-2-11 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-11. Requirements for certificate of public convenience and necessity.

(a) No public utility, person or corporation shall begin the construction of any plant, equipment, property or facility for
furnishing to the public any of the services enumerated in section one, article two of this chapter nor apply for, nor obtain any franchise, license or permit from any municipality or other governmental agency, except ordinary extensions of existing systems in the usual course of business, unless and until it shall obtain from the Public Service Commission a certificate of public convenience and necessity authorizing such construction franchise, license or permit. Upon the filing of any application for such certificate, and after hearing, the Commission may, in its discretion, issue or refuse to issue, or issue in part and refuse in part, such certificate of convenience and necessity: Provided, That the Commission, after it gives proper notice and if no protest is received within thirty days after the notice is given, may waive formal hearing on the application. Notice shall be given by publication which shall state that a formal hearing may be waived in the absence of protest, made within thirty days, to the application. The notice shall be published as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The publication area shall be the proposed area of operation. Any public utility, person or corporation subject to the provisions of this section shall give the Commission at least thirty days' notice of the filing of any such application for a certificate of public convenience and necessity under this section: Provided, That the Commission may modify or waive the thirty-day notice requirement. The Commission shall render its final decision on any application under the provisions of this section or section eleven-a of this article within two hundred seventy days of the filing of the application and within ninety days after final submission of any such application for decision following a hearing: Provided, however, That if the projected total cost of the project is greater than fifty million dollars, the Commission shall render its final decision on any such application filed under the provisions of this section or section eleven-a of this article within four hundred days of the filing of the application and within ninety
days after final submission of any such application for decision after a hearing. If such decision is not rendered within the aforementioned two hundred seventy days, four hundred days or ninety days, the Commission shall issue a certificate of convenience and necessity as applied for in the application. The Commission shall prescribe such rules as it may deem proper for the enforcement of the provisions of this section; and, in establishing that public convenience and necessity do exist, the burden of proof shall be upon the applicant.

(b) Pursuant to the requirements of subsection (a) of this section the Commission may issue a certificate of public convenience and necessity to any intrastate pipeline, interstate pipeline, or local distribution company for the transportation in intrastate commerce of natural gas used by any person for one or more uses, as defined, by rule, by the Commission in the case of:

(1) Natural gas sold by a producer, pipeline or other seller to such person; or

(2) Natural gas produced by such person.

(c) Any public utility, person or corporation proposing any electric power project that requires a certificate under this section is not required to obtain such certificate before applying for or obtaining any franchise, license or permit from any municipality or other governmental agency.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 18th day of April, 2005.

Governor
PRESENTED TO THE GOVERNOR

Date 4/12/05
Time 3:00 pm