WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 614
(Senators Unger and Snyder, original sponsors)

[Passed March 13, 2010; in effect ninety days from passage.]
AN ACT to amend and reenact §24-2-11a of the Code of West Virginia, 1931, as amended, relating to Public Service Commission approval of the construction of high voltage transmission lines; requiring applicant to notify owners of surface real estate that lie within the preferred corridor of the proposed transmission line; and requiring the commission to act in the best interest of West Virginia customers and its citizens.

Be it enacted by the Legislature of West Virginia:

That §24-2-11a 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.

§24-2-11a. Requirement for certificate of public convenience and necessity before beginning construction of high voltage transmission line; contents of application; notice; hearing; criteria for granting or denying certificate; regulations.
(a) No public utility, person or corporation may begin construction of a high voltage transmission line of two hundred thousand volts or over, which line is not an ordinary extension of an existing system in the usual course of business as defined by the Public Service Commission, unless and until it or he or she has obtained from the Public Service Commission a certificate of public convenience and necessity approving the construction and proposed location of the transmission line.

(b) The application for the certificate shall be in the form the commission prescribes and shall contain:

1. A description, in such detail as the commission prescribes, of the location and type of line facilities which the applicant proposes to construct;

2. A statement justifying the need for the facilities;

3. A statement of the environmental impact of the line facilities; and

4. Other information the applicant considers relevant or the commission requires.

(c) Upon the filing of the application, the applicant shall publish, in the form the commission directs, as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code, the publication area for the publication to be each county in which any portion of the proposed transmission line is to be constructed, a notice of the filing of the application and that the commission may approve the application unless within fifteen days after completion of publication a written request for a hearing on the application has been received by the commission from a person or persons alleging that the proposed transmission line or its location is against the public interest. If the request is timely received, the commission shall set the matter for hearing on a date within sixty days from completion of the publi-
cration, and shall require the applicant to publish notice of
the time and place of hearing in the same manner as is
required for the publication of notice of the filing of the
application. At least thirty business days before the
deadline set by the Public Service Commission to file a
petition to intervene with regard to the application, the
applicant shall serve notice by certified mail to all owners
of surface real estate that lie within the preferred corridor
of the proposed transmission line. Notice received by a
named owner who is the recipient of record of the most
recent tax bill that has been issued by the county sheriff’s
office for a parcel of land at the time of the filing of the
application is sufficient notice regarding that parcel for
purposes of this subsection.

(d) Within sixty days after the filing of the application,
or if hearing is held on the application, within ninety days
after final submission on oral argument or brief, the
commission may approve the application if it finds that
the proposed transmission line:

(1) Will economically, adequately and reliably contribute
to meeting the present and anticipated requirements for
electric power of the customers served by the applicant or
is necessary and desirable for present and anticipated
reliability of service for electric power for its service area
or region;

(2) Will be in the best interest of West Virginia customers
and its citizens; and

(3) Will result in an acceptable balance between reason-
able power needs and reasonable environmental factors.

(e) The commission may impose conditions upon its
approval of the application, or modify the applicant's
proposal, to achieve an acceptable balance between
reasonable power needs and reasonable environmental
factors.
(f) The provisions of this section do not apply to the construction of line facilities which will be part of a transmission line for which any right-of-way has been acquired prior to January 1, 1973.

(g) The commission shall prescribe rules it considers proper for the administration and enforcement of the provisions of this section, which rules shall be promulgated in accordance with the applicable provisions of chapter twenty-nine-a of this code.

(h) Notwithstanding any other provision of the law to the contrary, the commission shall determine, in its discretion, which transmission line or lines crossing above the Ohio River must be marked to be made visible to airborne traffic flying in any area where the lines exist, and shall promulgate rules requiring that all public utilities or persons who install or maintain the lines make the necessary markings.
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........................... this the 3rd
Day of................................ 2010.

Governor