WEST VIRGINIA LEGISLATURE
EIGHTIETH LEGISLATURE
REGULAR SESSION, 2012

ENROLLED
COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 623
(SENATOR SYPOLT, ORIGINAL SPONSOR)

[Passed March 10, 2012; in effect ninety days from passage.]
AN ACT to amend and reenact §24-2-2 of the Code of West Virginia, 1931, as amended, relating generally to the power of the Public Service Commission to regulate public utilities; and authorizing the Public Service Commission to promulgate rules establishing requirements for capacity improvement fees.

Be it enacted by the Legislature of West Virginia:

That §24-2-2 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.

§24-2-2. General power of commission to regulate public utilities.

1 (a) The commission is hereby given power to investigate all rates, methods and practices of public utilities subject to the provisions of this chapter; to require them to conform to the laws of this state and to all rules, regulations and orders of the commission not contrary to law; and to require copies of all reports, rates, classifications, schedules and timetables
in effect and used by the public utility or other person, to be filed with the commission, and all other information desired by the commission relating to the investigation and requirements, including inventories of all property in such form and detail as the commission may prescribe. The commission may compel obedience to its lawful orders by mandamus or injunction or other proper proceedings in the name of the state in any circuit court having jurisdiction of the parties or of the subject matter, or the Supreme Court of Appeals direct, and the proceedings shall have priority over all pending cases. The commission may change any intrastate rate, charge or toll which is unjust or unreasonable or any interstate charge with respect to matters of a purely local nature which have not been regulated by or pursuant to an act of Congress and may prescribe a rate, charge or toll that is just and reasonable, and change or prohibit any practice, device or method of service in order to prevent undue discrimination or favoritism between persons and between localities and between commodities for a like and contemporaneous service. But in no case shall the rate, toll or charge be more than the service is reasonably worth, considering the cost of the service. Every order entered by the commission shall continue in force until the expiration of the time, if any, named by the commission in the order, or until revoked or modified by the commission, unless the order is suspended, modified or revoked by order or decree of a court of competent jurisdiction: Provided, That in the case of utilities used by emergency shelter providers, the commission shall prescribe such rates, charges or tolls that are the lowest available. "Emergency shelter provider" means any non-profit entity which provides temporary emergency housing and services to the homeless or to victims of domestic violence or other abuse.

(b) Notwithstanding any other provision of this code to the contrary, rates are not discriminatory if, when considering the debt costs associated with a future water or sewer project which would not benefit existing customers, the commission establishes rates which ensure that the future
customers to be served by the new project are solely responsible for the debt costs associated with the project.

(c) Notwithstanding any other provision of this code to the contrary, the commission shall promulgate and adopt rules that relate to its establishment and modification of capacity improvement fees for residential and commercial customers for inclusion in the tariff of a private, public or municipal water or sewer utility.

(1) A capacity improvement fee shall be based upon the estimated cost of future additions or upgrades of capacity required to serve future capacity demand by a new connection compared to the overall demand due to customer growth;

(2) A capacity improvement fee shall apply to developers and owners of structures that seek to connect to water and sewer systems;

(3) In establishing the capacity improvement fee, the commission shall consider, together with other criteria it may in its discretion consider, the expected growth in population that will be served by the utility, the capacity requirement to serve that population growth and the expected exhaustion date of existing capacity;

(4) The commission shall consider establishing differentials in the fee or limitations on the amount of or calculation of fees based upon a relative cost of housing index created pursuant to the provisions of section two-b, article one, chapter eleven of this code, which fee differentials shall not be considered discriminatory rates within the meaning of this chapter;

(5) The commission shall consider an affordable housing component with a discount capacity improvement fee schedule based upon the new home's value compared to the most recent annual single dwelling residential housing index created pursuant to the provisions of section two-b, article one, chapter eleven of this code;
(6) The capacity improvement fee shall include a lower fee for manufactured housing equal to twenty-five percent of the otherwise applicable fee for a standard residential housing unit;

(7) The commission shall establish a method for developing fee schedules and maximum fees for commercial developments and residential developments with multiple units;

(8) The revenue from the capacity improvement fees shall be deposited in a separate account to be used only for future capital improvements, as determined and authorized by commission order;

(9) The commission may develop further criteria relating to existing and proposed capacity improvement fees the commission considers necessary to effectuate the provisions of this subsection;

(10) The commission shall promulgate rules in accordance with section seven, article one, chapter twenty-four of this code to effectuate the purposes of this subsection; and

(11) Nothing contained in this subsection may be construed to invalidate any capacity improvement fees approved by the commission prior to the effective date of the rules required to be promulgated by this subsection.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate 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 of the House of Delegates

The within was disapproved this the 36th Day of April, 2012.

Governor
PRESENTED TO THE GOVERNOR

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