

# WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENROLLED

Committee Substitute

for

**House Bill 2661**

BY DELEGATES ANDERSON, AZINGER, HOWELL, J. KELLY,  
WESTFALL, PETHTEL, STORCH, D. KELLY, SWARTZMILLER,  
NELSON AND HARSHBARGER

[Passed March 8, 2019; in effect ninety days from  
passage.]

FILED  
2019 MAR 27 P 5: 07  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

HB 266 vetoed

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FILED

1 AN ACT to amend and reenact §24-2-4c of the Code of West Virginia, 1931, as amended; and to  
2 amend and reenact §24-3-7 of said code, all relating to the powers of the Public Service  
3 Commission and the regulation of natural gas utilities; permitting a natural gas utility to  
4 make a request for proposal for incentivized gas drilling where dependable, lower-priced  
5 supplies of natural gas are not readily available; permitting the natural gas utility to recover  
6 certain costs; and permitting a natural gas utility to recover costs reasonably necessary to  
7 convert some customers to alternate fuel sources when gas service to that customer has  
8 been or is to be abandoned.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.**

**§24-2-4c. Rate increases for natural gas public utilities relating to purchase of natural gas  
from suppliers.**

1 (a) Before granting any rate increase to a natural gas public utility the commission must  
2 determine that dependable lower-priced supplies of natural gas are not readily available to the  
3 applicant from other sources.

4 (b) At any hearing involving a rate increase for a natural gas public utility, the burden of  
5 proof to demonstrate that dependable lower-priced supplies of natural gas are not readily  
6 available from other sources and that contracts between the public utility and its suppliers for  
7 purchase of natural gas are negotiated at arm's length and are not detrimental to the customers  
8 of the utility's services shall be upon the public utility making application for such change. Should  
9 the applying public utility not satisfactorily meet this burden, then the commission may not  
10 authorize an increase greater than that which reflects the reasonable cost of natural gas which is  
11 determined to be readily available.

12 (c) If a gas utility purchases from an affiliate more than 50 percent of its gas supplied to  
13 its customers, any purchase cost adjustment increase shall be based on actual costs and may be  
14 subject to the general rate case requirements and review of §24-2-4a of this code.

15 (d) Before January 1, 1984, the commission shall promulgate rules and regulations  
16 detailing what an applying natural gas utility must show in providing that dependable, lower-priced  
17 supplies of natural gas are not readily available to the applicant from other sources. Such rules  
18 and regulations shall include a requirement that each such utility let out bids for the purchase of  
19 a substantial quantity of natural gas supplied to its customers and that each such public utility  
20 present evidence demonstrating that all available sources of gas have been thoroughly  
21 investigated and that the utility's purchases were at the lowest available price among reliable  
22 sources at the time of the purchase. Such evidence shall include a list of all persons, firms and  
23 corporations which were investigated as sources of gas; the price per thousand cubic feet at which  
24 each investigated person, firm or corporation offered gas for sale; the availability and cost of  
25 transporting such gas and the amount of gas potentially available each month by such person,  
26 firm or corporation. Such list shall also include the same information resulting from investigation  
27 of all "shut-in" wells.

28 (e) A gas utility has the option to petition the commission for approval of requests for  
29 proposal containing proposed incentives for the drilling of new natural gas wells and/or increasing  
30 production from existing natural gas wells and a process for soliciting bids for costs for the same  
31 to procure dependable supplies of natural gas to serve certain gas utility customers where  
32 dependable, lower-priced supplies of natural gas are not readily available to serve those  
33 customers. The commission shall approve the petition if the gas utility shows that dependable,  
34 lower-priced supplies of natural gas are not available to serve those customers. Bids awarded  
35 and implemented pursuant to and within the parameters of the commission-approved gas utility  
36 petition for approval of the request(s) for proposal shall be deemed to be the gas utility's  
37 reasonable cost of natural gas to dependably serve those customers at the lowest available price,  
38 and the gas utility shall recover those costs pursuant to its annual purchase gas costs adjustment  
39 filings with the commission under this section and the above-referenced rules.

**ARTICLE 3. DUTIES AND PRIVILEGES OF PUBLIC UTILITIES SUBJECT TO REGULATIONS OF COMMISSION.**

**§24-3-7. Permit to abandon service; certificate; hearing upon intervention by consumer advocate; alternative service.**

1 (a) No railroad or other public utility shall abandon all or any portion of its service to the  
2 public or the operation of any of its lines which would affect the service it is rendering the public  
3 unless and until there shall first have been filed with the Public Service Commission of this state  
4 an application for a permit to abandon service and obtained from the commission an order stating  
5 that the present and future public convenience and necessity permits such abandonment.

6 (b) The consumer advocate's office shall be notified of all notices to abandon rail service.  
7 Within five (5) days of the receipt of such notice the consumer advocate shall notify the West  
8 Virginia public port authority of such proposed abandonment. The public port authority shall  
9 advise the consumer advocate as to whether such abandonment is in the public interest or if such  
10 rail line or service is an integral part of the intermodal transportation system within West Virginia.  
11 If the public port authority deems such abandonment to be not in the public interest, then the  
12 consumer advocate shall intervene to block such abandonment before all appropriate state and  
13 federal agencies or courts.

14 (c) The Public Service Commissioner, to the extent permitted by federal law, shall  
15 promulgate rules and regulations to govern the abandonment of rail lines and rail service,  
16 including, but not limited to, the providing of a hearing for the presentation of evidence in cases  
17 where the consumer advocate seeks intervention pursuant to §24-3-7(b) of this code.

18 (d) In the event the commission determines that an application to abandon gas service or  
19 any part thereof is in the public interest and required by the present and future public convenience  
20 and necessity, it shall include in its order, as a condition of releasing any such utility from its public  
21 service obligation to provide gas service, a provision requiring the utility, prior to discontinuing

22 service, to pay the cost reasonably necessary to convert each customer to an alternate fuel  
23 source. Natural gas utilities may defer actual expenditures attributable to the cost reasonably  
24 necessary to convert each customer incurred after the utility's last rate case proceeding and either  
25 (1) Not included in the utility's current base rates, or (2) not recovered by the utility pursuant to  
26 filings made by the utility under §24-2-4c of this code. The utility shall recover its actual  
27 expenditures attributable to the cost reasonably necessary to convert each customer either (1) In  
28 a future rate case through recovery of the deferred expenditures amortized over a reasonable  
29 period of time to be determined by the commission, or (2) pursuant to filings made by the utility  
30 under § 24-2-4c of this code; in either case subject to commission review of only whether those  
31 costs are reasonably necessary to convert each customer and are not reflected in the utility's  
32 current base rates, or have not been recovered by the utility pursuant to filings made by the utility  
33 under § 24-2-4c of this code.

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

*Wesley C. Givens*  
.....  
Chairman, House Committee

*Mark A. Herring*  
.....  
Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

*Steve Harris*  
.....  
Clerk of the House of Delegates

*John C. C. ...*  
.....  
Clerk of the Senate

*Robert H. Anderson*  
.....  
Speaker of the House of Delegates

*Mark R. Warner*  
.....  
President of the Senate

FILED  
2019 MAR 27 P 5:08  
OFFICE OF THE VIRGINIA  
SECRETARY OF STATE

The within *is disapproved* this the *27th*  
day of *March* ..... 2019.

*James L. Good*  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 21 2019

Time 12:40 pm