WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

ENROLLED

House Bill 4661

BY DELEGATES ANDERSON, J. KELLY, MAYNARD,
STORCH, AZINGER, PETHTEL, HARTMAN, MILLER,
P. MARTIN AND C. MARTIN

[Passed February 27, 2020; in effect ninety days from passage.]
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AN ACT to amend and reenact §24-2-4c of the Code of West Virginia, 1931, as amended; and to amend and reenact §24-3-7 of said code, all relating to the powers of the Public Service Commission and the regulation of natural gas utilities; permitting natural gas utilities to seek proposals for drilling new natural gas wells and proposals for increasing production from existing natural gas wells; permitting natural gas utilities to create a process for identifying the cost to procure dependable supplies of natural gas to serve certain gas utility customers when dependable, lower-priced supplies of natural gas are not readily available to serve those customers; allowing natural gas utilities to petition the commission for approval of the related costs to serve such customers; providing that the commission may approve the petition the commission finds that: (1) The process of determining the costs and expected additional natural gas supply is reasonable; (2) the expected additional supply is dependable; and (3) the costs of the additional supply are reasonable and not contrary to the public interest; providing that natural gas utilities shall recover those costs pursuant to its annual purchased gas costs adjustment filings with the commission; allowing natural gas utilities to defer reasonable and prudent actual expenses attributable to converting each customer, incurred after the test year for the utility’s last rate case proceeding, which are not included in the utility’s current base rates; providing that natural gas utilities shall recover reasonable and prudent deferred customer conversion expenses in future base rate cases through recovery of deferred expenses amortized over a reasonable period of time, as determined by the commission; providing that such recovery will be allowed only to the extent that the commission determines, based on evidence presented by the utility, that deferred amounts did not contribute to base rate earnings in excess of the utility’s last authorized return on equity calculated since the effective date of base rates from the utility’s last rate case proceeding; and adding lettering of subsections to an existing section of code.

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; obtaining new supplies of natural gas to meet obligations.

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

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

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

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

(e) A gas utility may seek proposals for drilling new natural gas wells and proposals for
increasing production from existing natural gas wells and may create a process for identifying the
cost to procure dependable supplies of natural gas to serve certain gas utility customers when
dependable, lower-priced supplies of natural gas are not readily available to serve those
customers. A gas utility may petition the commission for approval of the related costs to serve
such customers. Upon a finding by the commission that: (1) The process of determining the costs
and expected additional natural gas supply is reasonable; (2) the expected additional supply is
dependable; and (3) the costs of the additional supply are reasonable and not contrary to the
public interest; the commission may approve the petition. The gas utility shall recover those costs
pursuant to its annual purchased gas costs adjustment filings with the commission under this
section and the above-referenced rules of the commission.

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; recouping costs of converting customers.

(a) No railroad or other public utility shall abandon all or any portion of its service to the
public or the operation of any of its lines which would affect the service it is rendering the public
unless and until there shall first have been filed with the Public Service Commission of this state
an application for a permit to abandon service and obtained from the commission an order stating
that the present and future public convenience and necessity permits such abandonment.
(b) The consumer advocate’s office shall be notified of all notices to abandon rail service. Within five days of the receipt of such notice the consumer advocate shall notify the West Virginia public port authority of such proposed abandonment. The public port authority shall advise the consumer advocate as to whether such abandonment is in the public interest or if such rail line or service is an integral part of the intermodal transportation system within West Virginia. If the public port authority deems such abandonment to be not in the public interest, then the consumer advocate shall intervene to block such abandonment before all appropriate state and federal agencies or courts.

(c) The Public Service Commissioner, to the extent permitted by federal law, shall promulgate rules and regulations to govern the abandonment of rail lines and rail service, including, but not limited to, the providing of a hearing for the presentation of evidence in cases where the consumer advocate seeks intervention pursuant to subsection (b).

(d) In the event the commission determines that an application to abandon gas service or any part thereof is in the public interest and required by the present and future public convenience and necessity, it shall include in its order, as a condition of releasing any such utility from its public service obligation to provide gas service, a provision requiring the utility, prior to discontinuing service, to pay the cost reasonably necessary to convert each customer to an alternate fuel source. Natural gas utilities may defer reasonable and prudent actual expenses attributable to converting each customer incurred after the test year for the utility’s last rate case proceeding and which are not included in the utility’s current base rates. The utility shall recover its reasonable and prudent deferred customer conversion expenses in a future base rate case through recovery of the deferred expenses amortized over a reasonable period of time to be determined by the commission, but such recovery will be allowed only to the extent that the commission also determines, based on evidence presented by the utility, that deferred amounts did not contribute to base rate earnings in excess of the utility’s last authorized return on equity calculated since the effective date of base rates from the utility’s last rate case proceeding.
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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within is approved this the 25th day of March 2020.

Governor
PRESENTED TO THE GOVERNOR

MAR 03 2020

Time 12:05 pm