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WEST VIRGINIA LEGISLATURE

Regular Session, 2001



ENROLLED

Committee Substitute for

SENATE BILL NO. 422

(By Senator Chafin)



PASSED March 8, 2003

In Effect 90 days from Passage

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OFFICE OF THE CLERK
SENATE OF WEST VIRGINIA

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 422

(SENATOR CHAFIN, *original sponsor*)

[Passed March 8, 2003; in effect ninety days from passage.]

AN ACT to amend and reenact section four-b, article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to broadening the power of the public service commission to allow an emergency rate for a municipality or a utility cooperative.

Be it enacted by the Legislature of West Virginia:

That section four-b, article two, chapter twenty-four of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-4b. Procedures for changing rates of electric and natural gas cooperatives, local exchange services of telephone cooperatives and municipally operated public utilities.

1 (a) The rates and charges of electric cooperatives, natural
2 gas cooperatives and municipally operated public utilities,
3 except for municipally operated commercial solid waste
4 facilities as defined in section two, article fifteen, chapter
5 twenty-two of this code, and the rates and charges for
6 local exchange services provided by telephone coopera-
7 tives are not subject to the rate approval provisions of
8 section four or four-a of this article, but are subject to the
9 limited rate provisions of this section.

10 (b) All rates and charges set by electric cooperatives,
11 natural gas cooperatives and municipally operated public
12 utilities and all rates and charges for local exchange
13 services set by telephone cooperatives shall be just,
14 reasonable, applied without unjust discrimination or
15 preference and based primarily on the costs of providing
16 these services. The rates and charges shall be adopted by
17 the electric, natural gas or telephone cooperative's govern-
18 ing board and in the case of the municipally operated
19 public utility by municipal ordinance to be effective not
20 sooner than forty-five days after adoption: *Provided*, That
21 notice of intent to effect a rate change shall be specified on
22 the monthly billing statement of the customers of the
23 utility for the month next preceding the month in which
24 the rate change is to become effective or the utility shall
25 give its customers, and in the case of a cooperative, its
26 customers, members and stockholders, other reasonable
27 notices as will allow filing of timely objections to the rate
28 change. The rates and charges shall be filed with the
29 commission, together with any information showing the
30 basis of the rates and charges and other information as the
31 commission considers necessary. Any change in the rates
32 and charges with updated information shall be filed with
33 the commission. If a petition, as set out in subdivision (1),

34 (2) or (3), subsection (c) of this section is received and the
35 electric cooperative, natural gas cooperative, telephone
36 cooperative or municipality has failed to file with the
37 commission the rates and charges with information
38 showing the basis of rates and charges and other informa-
39 tion as the commission considers necessary, the suspension
40 period limitation of one hundred twenty days and the one
41 hundred-day period limitation for issuance of an order by
42 a hearing examiner, as contained in subsections (d) and (e)
43 of this section, is tolled until the necessary information is
44 filed. The electric cooperative, natural gas cooperative,
45 telephone cooperative or municipality shall set the date
46 when any new rate or charge is to go into effect.

47 (c) The commission shall review and approve or modify
48 the rates upon the filing of a petition within thirty days of
49 the adoption of the ordinance or resolution changing the
50 rates or charges by:

51 (1) Any customer aggrieved by the changed rates or
52 charges who presents to the commission a petition signed
53 by not less than twenty-five percent of the customers
54 served by the municipally operated public utility or
55 twenty-five percent of the membership of the electric,
56 natural gas or telephone cooperative residing within the
57 state;

58 (2) Any customer who is served by a municipally oper-
59 ated public utility and who resides outside the corporate
60 limits and who is affected by the change in the rates or
61 charges and who presents to the commission a petition
62 alleging discrimination between customers within and
63 without the municipal boundaries. The petition shall be
64 accompanied by evidence of discrimination; or

65 (3) Any customer or group of customers who are affected
66 by the change in rates who reside within the municipal
67 boundaries and who present a petition to the commission
68 alleging discrimination between customer or group of
69 customers and other customers of the municipal utility.

70 The petition shall be accompanied by evidence of discrimi-
71 nation.

72 (d) (1) The filing of a petition with the commission signed
73 by not less than twenty-five percent of the customers
74 served by the municipally operated public utility or
75 twenty-five percent of the membership of the electric,
76 natural gas or telephone cooperative residing within the
77 state under subdivision (1), subsection (c) of this section
78 shall suspend the adoption of the rate change contained in
79 the ordinance or resolution for a period of one hundred
80 twenty days from the date the rates or charges would
81 otherwise go into effect or until an order is issued as
82 provided herein.

83 (2) Upon sufficient showing of discrimination by custom-
84 ers outside the municipal boundaries or a customer or a
85 group of customers within the municipal boundaries under
86 a petition filed under subdivision (2) or (3), subsection (c)
87 of this section, the commission shall suspend the adoption
88 of the rate change contained in the ordinance for a period
89 of one hundred twenty days from the date the rates or
90 charges would otherwise go into effect or until an order is
91 issued as provided herein.

92 (e) The commission shall forthwith appoint a hearing
93 examiner from its staff to review the grievances raised by
94 the petitioners. The hearing examiner shall conduct a
95 public hearing and shall, within one hundred days from
96 the date the rates or charges would otherwise go into
97 effect, unless otherwise tolled as provided in subsection (b)
98 of this section, issue an order approving, disapproving or
99 modifying, in whole or in part, the rates or charges im-
100 posed by the electric, natural gas or telephone cooperative
101 or by the municipally operated public utility pursuant to
102 this section.

103 (f) Upon receipt of a petition for review of the rates
104 under the provisions of subsection (c) of this section, the
105 commission may exercise the power granted to it under the

106 provisions of section three of this article. The commission
107 may determine the method by which the rates are reviewed
108 and may grant and conduct a de novo hearing on the
109 matter if the customer, electric, natural gas or telephone
110 cooperative or municipality requests a hearing.

111 (g) The commission may, upon petition by a municipality
112 or electric, natural gas or telephone cooperative, allow an
113 interim or emergency rate to take effect, subject to refund
114 or future modification, if it is determined that the interim
115 or emergency rate is necessary to protect the municipality
116 from financial hardship attributable to the purchase of the
117 utility commodity sold, or the commission determines that
118 a temporary or interim rate increase is necessary for the
119 utility to avoid financial distress. In such cases, the
120 commission may waive the 45-day waiting period provided
121 for in subsection (b) of this section and the one hundred
122 twenty-day suspension period provided for in subsection
123 (d) of this section.

124 (h) Notwithstanding any other provision, the commission
125 has no authority or responsibility with regard to the
126 regulation of rates, income, services or contracts by
127 municipally operated public utilities for services which are
128 transmitted and sold outside of the state of West Virginia.

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

Cary A. Fink
.....
Chairman Senate Committee

Shan Aye
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Darrell E. Hebas
.....
Clerk of the Senate

Gregory M. Sawyer
.....
Clerk of the House of Delegates

Carl Roy Tomblin
.....
President of the Senate

Robert Skiss
.....
Speaker House of Delegates

The within *is approved* this the *15th*
Day of *April*, 2003.
Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/27/03

Time 10:10 am