

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.]

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 natural gas utilities to
4 seek proposals for drilling new natural gas wells and proposals for increasing production
5 from existing natural gas wells; permitting natural gas utilities to create a process for
6 identifying the cost to procure dependable supplies of natural gas to serve certain gas
7 utility customers when dependable, lower-priced supplies of natural gas are not readily
8 available to serve those customers; allowing natural gas utilities to petition the commission
9 for approval of the related costs to serve such customers; providing that the commission
10 may approve the petition the commission finds that: (1) The process of determining the
11 costs and expected additional natural gas supply is reasonable; (2) the expected
12 additional supply is dependable; and (3) the costs of the additional supply are reasonable
13 and not contrary to the public interest; providing that natural gas utilities shall recover
14 those costs pursuant to its annual purchased gas costs adjustment filings with the
15 commission; allowing natural gas utilities to defer reasonable and prudent actual expenses
16 attributable to converting each customer, incurred after the test year for the utility's last
17 rate case proceeding, which are not included in the utility's current base rates; providing
18 that natural gas utilities shall recover reasonable and prudent deferred customer
19 conversion expenses in future base rate cases through recovery of deferred expenses
20 amortized over a reasonable period of time, as determined by the commission; providing
21 that such recovery will be allowed only to the extent that the commission determines,
22 based on evidence presented by the utility, that deferred amounts did not contribute to
23 base rate earnings in excess of the utility's last authorized return on equity calculated
24 since the effective date of base rates from the utility's last rate case proceeding; and
25 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.

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 section four-a of this article.

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 may seek proposals for drilling new natural gas wells and proposals for
29 increasing production from existing natural gas wells and may create a process for identifying the
30 cost to procure dependable supplies of natural gas to serve certain gas utility customers when
31 dependable, lower-priced supplies of natural gas are not readily available to serve those
32 customers. A gas utility may petition the commission for approval of the related costs to serve
33 such customers. Upon a finding by the commission that: (1) The process of determining the costs
34 and expected additional natural gas supply is reasonable; (2) the expected additional supply is
35 dependable; and (3) the costs of the additional supply are reasonable and not contrary to the
36 public interest; the commission may approve the petition. The gas utility shall recover those costs
37 pursuant to its annual purchased gas costs adjustment filings with the commission under this
38 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.**

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

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 reasonable and prudent actual expenses attributable to
24 converting each customer incurred after the test year for the utility's last rate case proceeding and
25 which are not included in the utility's current base rates. The utility shall recover its reasonable
26 and prudent deferred customer conversion expenses in a future base rate case through recovery
27 of the deferred expenses amortized over a reasonable period of time to be determined by the
28 commission, but such recovery will be allowed only to the extent that the commission also
29 determines, based on evidence presented by the utility, that deferred amounts did not contribute
30 to base rate earnings in excess of the utility's last authorized return on equity calculated since the
31 effective date of base rates from the utility's last rate case proceeding.

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

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2020.

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Governor