

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**Enrolled**

**Committee Substitute**

**for**

**Senate Bill 802**

SENATOR SWOPE, *original sponsor*

[Passed March 7, 2020; in effect 90 days from passage]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §24-2-20, relating generally to the regulation of public utilities; providing  
3 legislative findings; providing that certain large volume end users may receive natural gas  
4 service without the permission, consent, control, review, or input of the West Virginia  
5 Public Service Commission; requiring the end user pay for the minimum amount of gas  
6 required for the exception; providing that the end user shall make certain certifications to  
7 the commission; providing that the commission shall receive, file, and retain all end user  
8 certifications; providing that no person, entity, or body shall be a public utility, intrastate  
9 pipeline, common carrier, or otherwise subject to the jurisdiction of the commission as a  
10 result of supplying such end users; and providing that provisions shall not prevent or  
11 impede the commission's safety regulation of pipelines.

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

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

**§24-2-20. Direct use of natural gas.**

1 (a) The Legislature hereby finds that:  
2 (1) Consumers of natural gas with an annual gas usage of at least 100 million cubic feet  
3 are sophisticated users of natural gas capable of choosing their source of natural gas supply;  
4 (2) The Federal Energy Regulatory Commission has approved bypass of local utilities and  
5 permitted construction of interstate pipeline facilities to serve end use customers;  
6 (3) The production and use of West Virginia natural gas in West Virginia will provide jobs  
7 for West Virginians, generate additional income and property taxes for our governments and our  
8 law and regulations should not impede use of West Virginia gas in West Virginia;  
9 (4) The ability of large natural gas users to choose among gas suppliers without regulatory  
10 supervision will save economic resources, foster competition in this state, and may induce new  
11 businesses to locate in West Virginia and employ West Virginians; and

12           (5) Commission approval of natural gas service is unnecessary for consumers of natural  
13 gas with an annual gas usage of at least 100 million cubic feet.

14           (b) Notwithstanding any other provision of this code to the contrary, any person, entity, or  
15 a facility that has not previously been a natural gas utility customer and has a projected annual  
16 natural gas usage in West Virginia of at least 100 million cubic feet annually may receive natural  
17 gas service from any person, corporation, limited liability company, or other entity without the  
18 permission, consent, review, or input of the commission if the using person or entity notifies the  
19 utility providing natural gas service in the area of use of its intent to receive service from a  
20 nonutility and certifies to the commission that: (i) The utility has been notified; (ii) its projected  
21 annual gas usage will be at least 100 million cubic feet per year; (iii) it desires to receive natural  
22 gas from a supplier other than a public utility; (iv) it will receive natural gas produced in West  
23 Virginia; and (v) the name and West Virginia tax identification number of the supplier or suppliers  
24 are identified in the certification: *Provided*, That the natural gas provider bills the customer and  
25 the customer pays for at least 100 million cubic feet during each full calendar year after the utility  
26 has been notified, except in the event one or both of the contracting parties experiences a force  
27 majeure event or a condition beyond their reasonable control.

28           (c) Notwithstanding any other provision of this code to the contrary, no person,  
29 corporation, limited liability company, or other entity shall be or become a public utility, intrastate  
30 pipeline, common carrier, or otherwise subject to the jurisdiction of the commission from or in  
31 connection with purchasing, using, selling, giving, buying, providing, transporting to or from, or  
32 otherwise supplying or using natural gas pursuant to subsection (b) of this section: *Provided*, That  
33 this subsection shall not prevent or impede the commission's safety regulation of natural gas  
34 pipelines pursuant to chapter 24B of this code.

35           (d) If a utility has an obligation to offer or provide service to an end user who elects its own  
36 supply pursuant to this section, the obligation shall terminate upon the commission's receipt of a  
37 certification provided by this section.

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

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*Chairman, Senate Committee*

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*Chairman, House Committee*

Originated in the Senate.

In effect 90 days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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

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*Governor*