

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

Senate Bill 802

SENATOR SWOPE, *original sponsor*

[Originating in the Committee on Government
Organization; reported on February 21, 2020]

1 A BILL 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; providing that the end user shall make certain certifications
6 to the commission; providing that the commission shall receive, file, and retain all end user
7 certifications; providing that no person, entity, or body shall be a public utility, intrastate
8 pipeline, common carrier, or otherwise subject to the jurisdiction of the commission as a
9 result of supplying such end users; and providing that provisions shall not prevent or
10 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.

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

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

NOTE: The purpose of this bill is to permit direct service to large volume users of natural gas when the natural gas used is produced in West Virginia.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.