

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**House Bill 2792**

BY DELEGATES ANDERSON, J. KELLY, ZATEZALO, BOGGS,

CRISS, AND REYNOLDS

[Originating in the Committee on Energy and

Manufacturing, March 4, 2021]



1 A BILL to amend and reenact §24-2-20 of the Code of West Virginia, 1931, as amended, relating  
2 generally to natural gas public utilities; providing for the expansion of direct access to  
3 natural gas service for new customers and allowing existing natural gas utility customers  
4 to have direct access to natural gas service if an existing user expands its service in the  
5 amount of 25 million cubic feet of natural gas per year or more; allowing this direct access  
6 for users without the permission, consent, control, review, or input of the Public Service  
7 Commission; amending certification requirements by users to the Public Service  
8 Commission; requiring the Public Service Commission to promulgate rules to implement  
9 the provisions no later than July 1, 2021; amending legislative findings and establishing  
10 an effective date.

*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) (1)~~ The Federal Energy Regulatory Commission has approved bypass of local utilities  
5 and permitted construction of interstate pipeline facilities to serve end use customers;  
6 ~~(3) (2)~~ The production and use of West Virginia natural gas in West Virginia will provide  
7 jobs for West Virginians, generate additional income and property taxes for our governments and  
8 our law and regulations should not impede use of West Virginia gas in West Virginia;  
9 ~~(4) (3)~~ The ability of ~~large~~ natural gas users to choose among gas suppliers without  
10 regulatory supervision will save economic resources, foster competition in this state, and may  
11 induce new businesses to locate in West Virginia and employ West Virginians; and

12           ~~(5)~~ (4) Commission approval of natural gas service is unnecessary for new consumers of  
13 natural gas ~~with an annual gas usage of at least 100 million cubic feet~~ or for existing consumers  
14 who wish to expand annual gas usage of at least 25 million cubic feet.

15           (b) Notwithstanding any other provision of this code to the contrary, any person, entity, or  
16 a facility that has not previously been a natural gas utility customer as of May 1, 2021, ~~and has a~~  
17 ~~projected annual natural gas usage in West Virginia of at least 100 million cubic feet annually~~ or  
18 any existing natural gas utility customer as of May 1, 2021, who has a projected annual increase  
19 of its natural gas usage in West Virginia of at least 25 million cubic feet, may receive natural gas  
20 service from any person, corporation, limited liability company, or other entity without the  
21 permission, consent, review, or input of the commission if the using person or entity notifies the  
22 utility providing natural gas service in the area of use of its intent to receive service from a  
23 nonutility and certifies to the commission that: (i) The utility has been notified; (ii) ~~its projected~~  
24 ~~annual gas usage will be at least 100 million cubic feet per year~~ for existing natural gas utility  
25 customers only, the projected annual gas usage will increase at least 25 million cubic feet per  
26 year; (iii) it desires to receive natural gas from a supplier other than a public utility; (iv) it will  
27 receive natural gas produced in West Virginia; and (v) the name and West Virginia tax  
28 identification number of the supplier or suppliers are identified in the certification. *Provided,* That  
29 the natural gas provider bills the existing customer and the existing customer pays for at least 400  
30 25 million cubic feet during each full calendar year after the utility has been notified, except in the  
31 event one or both of the contracting parties experiences a force majeure event or a condition  
32 beyond their reasonable control.

33           (c) Notwithstanding any other provision of this code to the contrary, no person,  
34 corporation, limited liability company, or other entity shall be or become a public utility, intrastate  
35 pipeline, common carrier, or otherwise subject to the jurisdiction of the commission from or in  
36 connection with purchasing, using, selling, giving, buying, providing, transporting to or from, or  
37 otherwise supplying or using natural gas pursuant to subsection (b) of this section: *Provided,* That

38 this subsection shall not prevent or impede the commission's safety regulation of natural gas  
39 pipelines pursuant to chapter 24B of this code: Provided, however, That the Public Service  
40 Commission has no jurisdiction of a Federal Energy Regulatory Commission regulated gas  
41 company.

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

45 (e) The Public Service Commission shall promulgate rules to effectuate the goals and  
46 purposes of this section no later than July 1, 2021.

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