

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2867

By Delegates Steele, Young, Worrell, Foster,
Hillenbrand, Shamblin, Kirby, Mazzocchi, Nestor,
Brooks, and Keaton

[Introduced January 20, 2023; Referred to the
Committee on Energy and Manufacturing]

1 A BILL to amend and reenact §24-2-1 of the Code of West Virginia, 1931, as amended; and by
 2 adding thereto a new section designated §24-2-1q, relating to expanding the jurisdiction of
 3 the Public Service Commission to include advanced nuclear reactors.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-1. Jurisdiction of commission; waiver of jurisdiction.

1 (a) The jurisdiction of the commission extends to all public utilities in this state and includes
 2 any utility engaged in any of the following public services:

3 (1) Common carriage of passengers or goods, whether by air, railroad, street railroad,
 4 motor, or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by
 5 land, water, or air;

6 (2) Transportation of oil, gas, or water by pipeline;

7 (3) Transportation of coal and its derivatives and all mixtures and combinations thereof
 8 with other substances by pipeline;

9 (4) Sleeping car or parlor car services;

10 (5) Transmission of messages by telephone, telegraph, or radio;

11 (6) Generation and transmission of electrical energy by hydroelectric or other utilities for
 12 service to the public, whether directly or through a distributing utility;

13 (7) Supplying water, gas, or electricity by municipalities or others: (A) *Provided*, That
 14 natural gas producers who provide natural gas service to not more than 25 residential customers
 15 are exempt from the jurisdiction of the commission with regard to the provisions of the residential
 16 service; (B) *Provided however*, That upon request of any of the customers of the natural gas
 17 producers, the commission may, upon good cause being shown, exercise authority as the
 18 commission may consider appropriate over the operation, rates, and charges of the producer and
 19 for the length of time determined proper by the commission; (C) *Provided further*, That the
 20 provision of a solar photovoltaic energy facility located on and designed to meet only the electrical

21 needs of the premises of a retail electric customer, the output of which is subject to a power
22 purchase agreement (PPAs) with the retail electric customer, shall not constitute a public service,
23 subject to the following conditions and limitations:

24 (i) PPAs must be 11 point font or larger.

25 (ii) The aggregate of all PPAs and net metering arrangements in the state for any utility
26 shall not exceed three percent (3%) of the utility's aggregate customer peak demand in the state
27 during the previous year;

28 (iii) There shall be individual customer on-site generator limits of designing the photovoltaic
29 energy facility to meet only the electrical needs of the premises of the retail electric customer and
30 which in no case shall exceed 25kW for residential customers, 500 kW for commercial customers,
31 and 2,000 kW for industrial customers;

32 (iv) Customers who enter into PPAs relating to photovoltaic facilities are to notify the utility
33 of its intent to enter into a transaction. In response, the utility shall notify within 30 days if any of the
34 caps have been reached. If the utility does not respond within 30 days, the generator may proceed
35 and the caps will be presumed not to have been reached; and

36 (v) The Public Service Commission may promulgate rules to govern and implement the
37 provisions of interconnections for PPAs, except the PSC does not have authority over the power
38 rates for the arrangements between the on-site generator and the customer;

39 (8) Sewer systems servicing 25 or more persons or firms other than the owner of the sewer
40 systems; *Provided*, That if a public utility other than a political subdivision intends to provide sewer
41 service by an innovative, alternative method, as defined by the federal Environmental Protection
42 Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction
43 of the Public Service Commission, regardless of the number of customers served by the
44 innovative, alternative method;

45 (9) Any public service district created under the provisions of §16-13A-1 *et seq.* of this
46 code, except that the Public Service Commission has no jurisdiction over the provision of
47 stormwater services by a public service district;

48 (10) Toll bridges located more than five miles from a toll-free bridge which crosses the
49 same body of water or obstacle, wharves, ferries; solid waste facilities; ~~and~~

50 (11) Any customer, entity or developer wishing to use advanced nuclear reactors:
51 Provided, That the commission shall promulgate rules to govern the issuance of permits for the
52 construction of, and the use and retirement of advanced nuclear reactors within the state; and

53 (12) Any other public service.

54 (b) The jurisdiction of the commission over political subdivisions of this state providing
55 separate or combined water and/or sewer services and having at least 4,500 customers and
56 annual combined gross revenues of \$3 million or more that are political subdivisions of the state is
57 limited to:

58 (1) General supervision of public utilities, as granted and described in §24-2-5 of this code;

59 (2) Regulation of measurements, practices, acts, or services, as granted and described in
60 §24-2-7 of this code;

61 (3) Regulation of a system of accounts to be kept by a public utility that is a political
62 subdivision of the state, as granted and described in §24-2-8 of this code;

63 (4) Submission of information to the commission regarding rates, tolls, charges, or
64 practices, as granted and described in §24-2-9 of this code;

65 (5) Authority to subpoena witnesses, take testimony, and administer oaths to any witness
66 in any proceeding before or conducted by the commission, as granted and described in §24-2-10
67 of this code; and

68 (6) Investigation and resolution of disputes between a political subdivision of the state
69 providing wholesale water and/or wastewater treatment or other services, whether by contract or
70 through a tariff, and its customer or customers, including, but not limited to, rates, fees, and

71 charges, service areas and contested utility combinations: *Provided*, That any request for an
72 investigation related to a dispute that is based on the act or omission of the political subdivision
73 shall be filed within 30 days of the act or omission of the political subdivision and the commission
74 shall resolve the dispute within 120 days of filing. The 120-day period for resolution of the dispute
75 may be tolled by the commission until the necessary information showing the basis of the rates,
76 fees, and charges or other information required by the commission is filed: *Provided, however*,
77 That the disputed rates, fees, and charges fixed by the political subdivision providing separate or
78 combined water and/or sewer services shall remain in full force and effect until set aside, altered
79 or, amended by the commission in an order to be followed in the future.

80 (7) Customers of water and sewer utilities operated by a political subdivision of the state
81 may bring formal or informal complaints regarding the commission's exercise of the powers
82 enumerated in this section and the commission shall resolve these complaints: *Provided*, That any
83 formal complaint filed under this section that is based on the act or omission of the political
84 subdivision shall be filed within 30 days of the act or omission complained of and the commission
85 shall resolve the complaint within 180 days of filing. The 180-day period for resolution of the
86 dispute may be tolled by the commission until the necessary information showing the basis of the
87 matter complained of is filed by the political subdivision: *Provided, however*, That whenever the
88 commission finds any regulations, measurements, practices, acts, or service to be unjust,
89 unreasonable, insufficient, or unjustly discriminatory, or otherwise in violation of any provisions of
90 this chapter, or finds that any service is inadequate, or that any service which is demanded cannot
91 be reasonably obtained, the commission shall determine and declare, and by order fix reasonable
92 measurement, regulations, acts, practices or services, to be furnished, imposed, observed, and
93 followed in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory,
94 inadequate, or otherwise in violation of this chapter, and shall make an order that is just and
95 reasonable: *Provided further*, That if the matter complained of would affect rates, fees, and
96 charges fixed by the political subdivision providing separate or combined water and/or sewer

97 services, the rates, fees, or charges shall remain in full force and effect until set aside, altered, or
98 amended by the commission in an order to be followed in the future.

99 (8) If a political subdivision has a deficiency in either its bond revenue or bond reserve
100 accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public
101 Service Commission for any redress that will bring the accounts to current status or otherwise
102 resolve the breached covenant. The commission has jurisdiction to fully resolve the alleged
103 deficiency or breach.

104 (c) The commission may, upon application, waive its jurisdiction and allow a utility
105 operating in an adjoining state to provide service in West Virginia when:

106 (1) An area of West Virginia cannot be practicably and economically served by a utility
107 licensed to operate within the State of West Virginia;

108 (2) The area can be provided with utility service by a utility which operates in a state
109 adjoining West Virginia;

110 (3) The utility operating in the adjoining state is regulated by a regulatory agency or
111 commission of the adjoining state; and

112 (4) The number of customers to be served is not substantial. The rates the out-of-state
113 utility charges West Virginia customers shall be the same as the rate the utility may charge in the
114 adjoining jurisdiction. The commission, in the case of any such utility, may revoke its waiver of
115 jurisdiction for good cause.

116 (d) Any other provisions of this chapter to the contrary notwithstanding:

117 (1) An owner or operator of an electric generating facility located or to be located in this
118 state that has been designated as an exempt wholesale generator under applicable federal law, or
119 will be so designated prior to commercial operation of the facility, for which the facility the owner or
120 operator holds a certificate of public convenience and necessity issued by the commission on or
121 before July 1, 2003, is subject to §24-2-11c(e) through §24-2-11c(j) of this code as if the certificate
122 of public convenience and necessity for the facility were a siting certificate issued under §24-2-11c

123 of this code, and is not otherwise subject to the jurisdiction of the commission or to the provisions
124 of this chapter with respect to the facility except for the making or constructing of a material
125 modification thereof as provided in §24-2-1(d)(5) of this code.

126 (2) Any person, corporation, or other entity that intends to construct or construct and
127 operate an electric generating facility to be located in this state that has been designated as an
128 exempt wholesale generator under applicable federal law, or will be designated prior to
129 commercial operation of the facility, for which facility the owner or operator does not hold a
130 certificate of public convenience and necessity issued by the commission on or before July 1,
131 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from
132 the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public
133 convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or
134 operator of an electric generating facility as is described in this subdivision for which a siting
135 certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of
136 this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of
137 this chapter with respect to the facility except for the making or constructing of a material
138 modification thereof as provided in §24-2-1(d)(5) of this code.

139 (3) An owner or operator of an electric generating facility located in this state that had not
140 been designated as an exempt wholesale generator under applicable federal law prior to
141 commercial operation of the facility that generates electric energy solely for sale at retail outside
142 this state or solely for sale at wholesale in accordance with any applicable federal law that
143 preempts state law or solely for both sales at retail and sales at wholesale and that had been
144 constructed and had engaged in commercial operation on or before July 1, 2003, is not subject to
145 the jurisdiction of the commission or to the provisions of this chapter with respect to the facility,
146 regardless of whether the facility subsequent to its construction has been or will be designated as
147 an exempt wholesale generator under applicable federal law: *Provided*, That the owner or
148 operator is subject to §24-2-1(d)(5) of this code if a material modification of the facility is made or

149 constructed.

150 (4) Any person, corporation, or other entity that intends to construct or construct and
151 operate an electric generating facility to be located in this state that has not been or will not be
152 designated as an exempt wholesale generator under applicable federal law prior to commercial
153 operation of the facility that will generate electric energy solely for sale at retail outside this state or
154 solely for sale at wholesale in accordance with any applicable federal law that preempts state law
155 or solely for both sales at retail and sales at wholesale and that had not been constructed and had
156 not been engaged in commercial operation on or before July 1, 2003, shall, prior to
157 commencement of construction of the facility, obtain a siting certificate from the commission
158 pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience
159 and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an
160 electric generating facility as is described in this subdivision for which a siting certificate has been
161 issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code, and is not
162 otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with
163 respect to the facility except for the making or constructing of a material modification thereof as
164 provided in §24-2-1(d)(5) of this code.

165 (5) An owner or operator of an electric generating facility described in this subsection shall,
166 before making or constructing a material modification of the facility that is not within the terms of
167 any certificate of public convenience and necessity or siting certificate previously issued for the
168 facility or an earlier material modification thereof, obtain a siting certificate for the modification from
169 the commission pursuant to the provisions of §24-2-11c of this code, in lieu of a certificate of public
170 convenience and necessity for the modification pursuant to the provisions of §24-2-11 of this code
171 and, except for the provisions of §24-2-11c of this code, is not otherwise subject to the jurisdiction
172 of the commission or to the provisions of this chapter with respect to the modification.

173 (6) The commission shall consider an application for a certificate of public convenience
174 and necessity filed pursuant to §24-2-11 of this code, to construct an electric generating facility

175 described in this subsection or to make or construct a material modification of the electric
176 generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the
177 application for the certificate of public convenience and necessity was filed with the commission
178 prior to July 1, 2003, and if the commission has not issued a final order as of that date.

179 (7) The limitations on the jurisdiction of the commission over, and on the applicability of the
180 provisions of this chapter to, the owner or operator of an electric generating facility as imposed by
181 and described in this subsection do not affect or limit the commission's jurisdiction over contracts
182 or arrangements between the owner or operator of the facility and any affiliated public utility
183 subject to the provisions of this chapter.

184 (e) The commission does not have jurisdiction of Internet protocol-enabled service or
185 voice-over Internet protocol-enabled service. As used in this subsection:

186 (1) "Internet protocol-enabled service" means any service, capability, functionality, or
187 application provided using Internet protocol, or any successor protocol, that enables an end user
188 to send or receive a communication in Internet protocol format, or any successor format,
189 regardless of whether the communication is voice, data, or video.

190 (2) "Voice-over Internet protocol service" means any service that:

191 (i) Enables real-time, two-way voice communications that originate or terminate from the
192 user's location using Internet protocol or a successor protocol; and

193 (ii) Uses a broadband connection from the user's location.

194 (3) The term "voice-over Internet protocol service" includes any service that permits users
195 to receive calls that originate on the public-switched telephone network and to terminate calls on
196 the public-switched telephone network.

197 (f) Notwithstanding any other provisions of this article, the commission does not have
198 jurisdiction to review or approve any transaction involving a telephone company otherwise subject
199 to §24-2-12 and §24-2-12a of this code, if all entities involved in the transaction are under common
200 ownership.

201 (g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power
202 systems are most fairly and effectively regulated by the local governing body. Therefore,
203 notwithstanding any other provisions of this article, the commission does not have jurisdiction over
204 the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the
205 jurisdiction of the Public Service Commission over municipal power systems is limited to that
206 granted specifically in this code

207 (a) The jurisdiction of the commission shall extend to all public utilities in this state and shall
208 include any utility engaged in any of the following public services:

209 Common carriage of passengers or goods, whether by air, railroad, street railroad, motor,
210 or otherwise, by express or otherwise, by land, water, or air, whether wholly or partly by land,
211 water, or air; transportation of oil, gas, or water by pipeline; transportation of coal and its
212 derivatives and all mixtures and combinations thereof with other substances by pipeline; sleeping
213 car or parlor car services; transmission of messages by telephone, telegraph, or radio; generation
214 and transmission of electrical energy by hydroelectric or other utilities for service to the public,
215 whether directly or through a distributing utility; supplying water, gas, or electricity by municipalities
216 or others; sewer systems servicing 25 or more persons or firms other than the owner of the sewer
217 systems: *Provided*, That if a public utility other than a political subdivision intends to provide sewer
218 service by an innovative, alternative method, as defined by the federal Environmental Protection
219 Agency, the innovative, alternative method is a public utility function and subject to the jurisdiction
220 of the Public Service Commission regardless of the number of customers served by the
221 innovative, alternative method; any public service district created under the provisions of §16-13A-
222 1 *et seq.* of this code, except that the Public Service Commission will have no jurisdiction over the
223 provision of stormwater services by a public service district; toll bridges located more than five
224 miles from a toll-free bridge which crosses the same body of water or obstacle, wharves, ferries;
225 solid waste facilities; and any other public service: *Provided, however*, That natural gas producers
226 who provide natural gas service to not more than 25 residential customers are exempt from the

227 jurisdiction of the commission with regard to the provisions of the residential service: *Provided*
228 *further*, That upon request of any of the customers of the natural gas producers, the commission
229 may, upon good cause being shown, exercise such authority as the commission may deem
230 appropriate over the operation, rates, and charges of the producer and for such length of time as
231 the commission may consider to be proper.

232 (b) The jurisdiction of the commission over political subdivisions of this state providing
233 separate or combined water and/or sewer services and having at least 4,500 customers and
234 annual combined gross revenues of \$3 million or more that are political subdivisions of the state is
235 limited to:

236 (1) General supervision of public utilities, as granted and described in §24-2-5 of this code;

237 (2) Regulation of measurements, practices, acts, or services, as granted and described in
238 §24-2-7 of this code;

239 (3) Regulation of a system of accounts to be kept by a public utility that is a political
240 subdivision of the state, as granted and described in §24-2-8 of this code;

241 (4) Submission of information to the commission regarding rates, tolls, charges, or
242 practices, as granted and described in §24-2-9 of this code;

243 (5) Authority to subpoena witnesses, take testimony, and administer oaths to any witness
244 in any proceeding before or conducted by the commission, as granted and described in §24-2-10
245 of this code; and

246 (6) Investigation and resolution of disputes between a political subdivision of the state
247 providing wholesale water and/or wastewater treatment or other services, whether by contract or
248 through a tariff, and its customer or customers, including, but not limited to, rates, fees, and
249 charges, service areas and contested utility combinations: *Provided*, That any request for an
250 investigation related to such a dispute that is based on the act or omission of the political
251 subdivision shall be filed within 30 days of the act or omission of the political subdivision and the
252 commission shall resolve said dispute within 120 days of filing. The 120-day period for resolution

253 of the dispute may be tolled by the commission until the necessary information showing the basis
254 of the rates, fees, and charges or other information as the commission considers necessary is
255 filed: *Provided, however,* That the disputed rates, fees, and charges so fixed by the political
256 subdivision providing separate or combined water and/or sewer services shall remain in full force
257 and effect until set aside, altered or, amended by the commission in an order to be followed in the
258 future.

259 (7) Customers of water and sewer utilities operated by a political subdivision of the state
260 may bring formal or informal complaints regarding the commission's exercise of the powers
261 enumerated in this section and the commission shall resolve these complaints: *Provided,* That any
262 formal complaint filed under this section that is based on the act or omission of the political
263 subdivision shall be filed within 30 days of the act or omission complained of and the commission
264 shall resolve the complaint within 180 days of filing. The 180-day period for resolution of the
265 dispute may be tolled by the commission until the necessary information showing the basis of the
266 matter complained of is filed by the political subdivision: *Provided, however,* That whenever the
267 commission finds any regulations, measurements, practices, acts, or service to be unjust,
268 unreasonable, insufficient, or unjustly discriminatory, or otherwise in violation of any provisions of
269 this chapter, or finds that any service is inadequate, or that any service which is demanded cannot
270 be reasonably obtained, the commission shall determine and declare, and by order fix reasonable
271 measurement, regulations, acts, practices, or services, to be furnished, imposed, observed, and
272 followed in lieu of those found to be unjust, unreasonable, insufficient, or unjustly discriminatory,
273 inadequate, or otherwise in violation of this chapter, and shall make such other order respecting
274 the same as shall be just and reasonable: *Provided further,* That if the matter complained of would
275 affect rates, fees, and charges so fixed by the political subdivision providing separate or combined
276 water and/or sewer services, the rates, fees, or charges shall remain in full force and effect until set
277 aside, altered, or amended by the commission in an order to be followed in the future.

278 (8) If a political subdivision has a deficiency in either its bond revenue or bond reserve
279 accounts, or is otherwise in breach of a bond covenant, any bond holder may petition the Public
280 Service Commission for such redress as will bring the accounts to current status or otherwise
281 resolve the breached covenant, and the commission shall have jurisdiction to fully resolve the
282 alleged deficiency or breach.

283 (c) The commission may, upon application, waive its jurisdiction and allow a utility
284 operating in an adjoining state to provide service in West Virginia when:

285 (1) An area of West Virginia cannot be practicably and economically served by a utility
286 licensed to operate within the State of West Virginia;

287 (2) The area can be provided with utility service by a utility which operates in a state
288 adjoining West Virginia;

289 (3) The utility operating in the adjoining state is regulated by a regulatory agency or
290 commission of the adjoining state; and

291 (4) The number of customers to be served is not substantial. The rates the out-of-state
292 utility charges West Virginia customers shall be the same as the rate the utility is duly authorized to
293 charge in the adjoining jurisdiction. The commission, in the case of any such utility, may revoke its
294 waiver of jurisdiction for good cause.

295 (d) Any other provisions of this chapter to the contrary notwithstanding:

296 (1) An owner or operator of an electric generating facility located or to be located in this
297 state that has been designated as an exempt wholesale generator under applicable federal law, or
298 will be so designated prior to commercial operation of the facility, and for which such facility the
299 owner or operator holds a certificate of public convenience and necessity issued by the
300 commission on or before July 1, 2003, is subject to §24-2-11c(e) through §24-2-11c(j) of this code
301 as if the certificate of public convenience and necessity for the facility were a siting certificate
302 issued under §24-2-11c of this code and is not otherwise subject to the jurisdiction of the

303 commission or to the provisions of this chapter with respect to the facility except for the making or
304 constructing of a material modification thereof as provided in §24-2-1(d)(5) of this code.

305 (2) Any person, corporation, or other entity that intends to construct or construct and
306 operate an electric generating facility to be located in this state that has been designated as an
307 exempt wholesale generator under applicable federal law, or will be so designated prior to
308 commercial operation of the facility, and for which facility the owner or operator does not hold a
309 certificate of public convenience and necessity issued by the commission on or before July 1,
310 2003, shall, prior to commencement of construction of the facility, obtain a siting certificate from
311 the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public
312 convenience and necessity pursuant to the provisions of §24-2-11 of this code. An owner or
313 operator of an electric generating facility as is described in this subdivision for which a siting
314 certificate has been issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of
315 this code and is not otherwise subject to the jurisdiction of the commission or to the provisions of
316 this chapter with respect to the facility except for the making or constructing of a material
317 modification thereof as provided in §24-2-1(d)(5) of this code.

318 (3) An owner or operator of an electric generating facility located in this state that had not
319 been designated as an exempt wholesale generator under applicable federal law prior to
320 commercial operation of the facility that generates electric energy solely for sale at retail outside
321 this state or solely for sale at wholesale in accordance with any applicable federal law that
322 preempts state law or solely for both sales at retail and sales at wholesale and that had been
323 constructed and had engaged in commercial operation on or before July 1, 2003, is not subject to
324 the jurisdiction of the commission or to the provisions of this chapter with respect to the facility,
325 regardless of whether the facility subsequent to its construction has been or will be designated as
326 an exempt wholesale generator under applicable federal law: *Provided*, That the owner or
327 operator is subject to §24-2-1(d)(5) of this code if a material modification of the facility is made or
328 constructed.

329 (4) Any person, corporation, or other entity that intends to construct or construct and
330 operate an electric generating facility to be located in this state that has not been or will not be
331 designated as an exempt wholesale generator under applicable federal law prior to commercial
332 operation of the facility that will generate electric energy solely for sale at retail outside this state or
333 solely for sale at wholesale in accordance with any applicable federal law that preempts state law
334 or solely for both sales at retail and sales at wholesale and that had not been constructed and had
335 not been engaged in commercial operation on or before July 1, 2003, shall, prior to
336 commencement of construction of the facility, obtain a siting certificate from the commission
337 pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public convenience
338 and necessity pursuant to the provisions of §24-2-11 of this code. An owner or operator of an
339 electric generating facility as is described in this subdivision for which a siting certificate has been
340 issued by the commission is subject to §24-2-11c(e) through §24-2-11c(j) of this code and is not
341 otherwise subject to the jurisdiction of the commission or to the provisions of this chapter with
342 respect to the facility except for the making or constructing of a material modification thereof as
343 provided in §24-2-1(d)(5) of this code.

344 (5) An owner or operator of an electric generating facility described in this subsection shall,
345 before making or constructing a material modification of the facility that is not within the terms of
346 any certificate of public convenience and necessity or siting certificate previously issued for the
347 facility or an earlier material modification thereof, obtain a siting certificate for the modification from
348 the commission pursuant to the provisions of §24-2-11c of this code in lieu of a certificate of public
349 convenience and necessity for the modification pursuant to the provisions of §24-2-11 of this code
350 and, except for the provisions of §24-2-11c of this code, is not otherwise subject to the jurisdiction
351 of the commission or to the provisions of this chapter with respect to the modification.

352 (6) The commission shall consider an application for a certificate of public convenience
353 and necessity filed pursuant to §24-2-11 of this code to construct an electric generating facility
354 described in this subsection or to make or construct a material modification of the electric

355 generating facility as an application for a siting certificate pursuant to §24-2-11c of this code if the
356 application for the certificate of public convenience and necessity was filed with the commission
357 prior to July 1, 2003, and if the commission has not issued a final order thereon as of that date.

358 (7) The limitations on the jurisdiction of the commission over, and on the applicability of the
359 provisions of this chapter to, the owner or operator of an electric generating facility as imposed by
360 and described in this subsection do not affect or limit the commission's jurisdiction over contracts
361 or arrangements between the owner or operator of the facility and any affiliated public utility
362 subject to the provisions of this chapter.

363 (e) The commission does not have jurisdiction of Internet protocol-enabled service or
364 voice-over Internet protocol-enabled service. As used in this subsection:

365 (1) "Internet protocol-enabled service" means any service, capability, functionality, or
366 application provided using Internet protocol, or any successor protocol, that enables an end user
367 to send or receive a communication in Internet protocol format, or any successor format,
368 regardless of whether the communication is voice, data, or video.

369 (2) "Voice-over Internet protocol service" means any service that:

370 (i) Enables real-time two-way voice communications that originate or terminate from the
371 user's location using Internet protocol or a successor protocol; and

372 (ii) Uses a broadband connection from the user's location.

373 (3) The term "voice-over Internet protocol service" includes any service that permits users
374 to receive calls that originate on the public-switched telephone network and to terminate calls on
375 the public-switched telephone network.

376 (f) Notwithstanding any other provisions of this article, the commission shall not have
377 jurisdiction to review or approve any transaction involving a telephone company otherwise subject
378 to §24-2-12 and §24-2-12a of this code if all entities involved in the transaction are under common
379 ownership.

380 (g) The Legislature finds that the rates, fees, charges, and ratemaking of municipal power
381 systems are most fairly and effectively regulated by the local governing body. Therefore,
382 notwithstanding any other provisions of this article, the commission shall not have jurisdiction over
383 the setting or adjustment of rates, fees, and charges of municipal power systems. Further, the
384 jurisdiction of the Public Service Commission over municipal power systems is limited to that
385 granted specifically in this code.

**§24-2-1q. Jurisdiction of commission over advanced small modular nuclear reactors or
microreactors.**

1 Effective July 1, 2023, in addition to all other powers and duties of the commission as
2 defined in this article, the commission shall establish, prescribe, and enforce rules to govern the
3 issuance of permits for the construction of, and the use and retirement of advanced nuclear
4 reactors.

NOTE: The purpose of this bill is to expand the jurisdiction of the Public Service Commission to include advanced nuclear reactors.

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