

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4009

By Delegates Pushkin, Hansen, Garcia, Williams,
Young, Hamilton, and Griffith

[Introduced February 13, 2024; Referred to the
Committee on Technology and Infrastructure then the
Judiciary]

1 A BILL to amend and reenact §24-1-3 of the Code of West Virginia, 1931, as amended; to amend
 2 said code by adding thereto a new section, designated §24-1-3a; to amend said code by
 3 adding thereto a new section, designated §24-2-22; and to amend §24-2A-1 of said code,
 4 all relating to the Public Service Commission; providing that Commission members be
 5 elected non-partisan positions; allowing for staggered appointments for initial election;
 6 revising provisions relating to duties of the Commission and its employees; establishing
 7 process for election of Commission members; providing mechanism of removal for
 8 commission members and employees by initiating judicial action; requiring electronic
 9 access for certain public hearings; creating a process for notice and comment by
 10 customers of a utility relating to a proposed or enacted utility rate increase; and increasing
 11 the discount rate for utility costs for certain low income persons.

Be it enacted by the Legislature of West Virginia:

ARTICLE 1. GENERAL PROVISIONS.

§24-1-3. Commission continued; membership; chairman; compensation; quorum.

1 (a) The Public Service Commission of West Virginia is continued and directed as provided
 2 by this chapter, chapter twenty-four-a, chapter twenty-four-b and chapter twenty-four-d of this
 3 code. The Public Service Commission may sue and be sued by that name.

4 (b) The Public Service Commission shall consist of three members who shall be appointed
 5 by the Governor, with the advice and consent of the Senate and all appointed members terms will
 6 end on December 31, 2025. Effective January 1, 2025, members of the Commission shall be
 7 elected by state-wide non-partisan election pursuant to §24-1-3a of this Code, to take Office
 8 effective January first following the year of election. The commissioners shall be citizens and
 9 residents of this state. ~~and at least one of them shall be duly licensed to practice law in West~~
 10 ~~Virginia, with not less than ten years' actual work experience in the legal profession as a member~~
 11 ~~of a State Bar.~~

12 (c) ~~No more than two of the commissioners shall be members of the same political party~~

13 ~~(d)~~ (c) Each commissioner shall, before entering upon the duties of his or her office, take
14 and subscribe to the oath provided by section five, article IV of the Constitution of West Virginia.
15 The oath shall be filed in the office of the Secretary of State.

16 ~~(e)~~ (d) The ~~Governor~~ Commission shall designate one of the commissioners to serve as
17 chairman ~~at the Governor's will and pleasure~~. The chairman shall be the chief administrative
18 officer of the commission. ~~The Governor may remove any~~ Any commissioner ~~only may be~~
19 removed for incompetency, neglect of duty, gross immorality, malfeasance in office, ~~or violation of~~
20 ~~subsections (g) and (h) of this section.~~

21 ~~(f)~~ (e) Upon ~~expiration of the terms, appointments are for terms of six years, except that an~~
22 ~~appointment to fill a vacancy is for the unexpired term only.~~

23 ~~(g)~~ (e) No person while in the employ of, or holding any official relation to, any public utility
24 subject to the provisions of this chapter or holding any stocks or bonds of a public utility subject to
25 the provisions of this chapter or who is pecuniarily interested in a public utility subject to the
26 provisions of this chapter may serve as a member of the commission or as an employee of the
27 commission.

28 ~~(h)~~ (f) Nor may any commissioner be a candidate for or hold public office other than re-
29 election to the commission or be a member of any political committee while acting as a
30 commissioner; nor may any commissioner or employee of the commission receive any pass, free
31 transportation or other thing of value, either directly or indirectly, from any public utility or motor
32 carrier subject to the provisions of this chapter. In case any of the commissioners becomes a
33 candidate for any public office or a member of any political committee, he or she is disqualified
34 from serving on the commission. ~~the Governor shall remove him or her from office and shall~~
35 ~~appoint a new commissioner to fill the vacancy created.~~

36 ~~(i)~~ (g) The annual salary of each commissioner provided in section two-a, article seven,
37 chapter six of this code shall be paid at least twice per month from the special funds in the
38 percentages that follow:

39 (1) From the Public Service Commission Fund collected under the provisions of section
40 six, article three of this chapter, eighty percent;

41 (2) From the Public Service Commission Motor Carrier Fund collected under the provisions
42 of section six, article six, chapter twenty-four-a of this code, seventeen percent; and

43 (3) From the Public Service Commission Gas Pipeline Safety Fund collected under the
44 provisions of section three, article five, chapter twenty-four-b of this code, three percent.

45 (†) (h) In addition to the salary provided for all commissioners in section two-a, article
46 seven, chapter six of this code, the chairman of the commission shall receive \$5,000 per annum to
47 be paid at least twice per month from the Public Service Commission Fund collected under the
48 provisions of section six, article three of this chapter.

49 (i) Any citizen of the state may petition a court of record to have a member of the
50 Commission removed for maleficence, or violation of any law or duty required by the Commission
51 by law.

§24-1-3a. Election of Public Service Commission Members.

1 Effective January 1, 2025, each member of the Public Service Commission shall be
2 elected on a nonpartisan basis during the May primary to serve 6-year term, subject to the
3 exceptions of the initial elected terms as provided herein. For purposes of the 2026 election, each
4 member shall have an elected term as follows: (1) One member is elected for a two-year term; (2)
5 one member is elected for a four-year term; and (3) member is elected for a six-year term. For the
6 2026 election, each candidate shall select the two-year, four-year or six- year term. After the initial
7 election in 2026, each member of the Commission shall be elected for a six-year term.

ARTICLE 2. POWERS AND DUTIES OF PUBLIC SERVICE COMMISSION.

§24-2-22. Notice to Consumers of proposed rate hikes.

1 (a) The Legislature finds that in the past 20 years the citizens of this state have had to
2 endure the highest increases in utility costs in the United States and that these increases have
3 most greatly impacted lower income residents, have far exceeded state wage, salary, and

4 retirement income increases, and are consuming a greater and greater proportion of our citizen's
5 income. This trend of spiraling utility rates has created financial hardship for countless West
6 Virginians. Further, that the current system of setting and increasing utility rate increases which
7 focuses on the costs of the utility companies, service upgrades and promoting state coal and
8 natural gas resources, while guaranteeing a rate of return for utilities, places the costs to the
9 consumers in West Virginia as a secondary consideration of the Public Service Commission.
10 Further, the current public notice and comment system for ratemaking of utility increases is an
11 ineffective tool for engaging average West Virginians, as its cumbersome case-codes, orders and
12 reports are difficult for average consumers to understand and reinforces the belief that there is no
13 meaningful way for them to participate in the utility ratemaking process. Therefore, the purpose of
14 this section is to create a mechanism to allow citizens to have a voice and provide understandable,
15 accessible, and transparent process to express their views of the financial harm hoisted upon
16 them in every increase of utility costs in West Virginia.

17 (b) Effective July 1, 2024, the commission shall order every utility, upon receipt of notice of
18 a rate increase, to provide in the following month's electronic or paper billing documents to each
19 customer of the utility, the following:

20 (1) A description of the proposed rate increase, including an estimate on the increase
21 costs to the consumer will be required to pay if the rate increase is approved;

22 (2) The purpose for the increase, with specific details regarding the reason for the
23 increase, and how much of the increase will be retained by the utility as profit in this state, and a
24 statement of the existing overall profits of the utility for the prior fiscal year;

25 (3) The mail address and email address that the consumer can submit comments;

26 (4) A list of all relevant dates and locations for receipt of public comment; and

27 (5) Upon the approval of the Commission of any rate increase, the information listed in
28 subdivision (2) shall be provided based on the approved rate as provided in this subsection.

29 (c) Any public hearing conducted relating to a utility rate increase shall be streamed on the
30 internet and participation in the public hearing, including giving testimony, shall be allowed
31 remotely.

32 (d) The Commission shall promulgate a rule providing minimum requirements for this
33 notice and shall review and approve the design and content of each utility's notice. The
34 Commission shall establish a web page location where all public comments may be reviewed
35 along with any responses the Commission has made to the submitted comments.

**ARTICLE 2A. REDUCED RATES FOR LOW-INCOME RESIDENTIAL CUSTOMERS
OF ELECTRICITY AND GAS.**

**§24-2A-1. Special rates for gas and electric utility customers receiving Social Security
Supplemental Security Income (SSI), Aid to Families with Dependent Children
(AFDC), Aid to Families with Dependent Children--Unemployed (AFDC-U) or food
stamps.**

1 The commission shall order each gas and electric utility subject to its jurisdiction, except
2 municipal or cooperative gas or electric utilities, to offer special reduced rates applicable to gas
3 and electric service for the billing months of December, January, February, March and April of each
4 year ~~(beginning with the billing month of December, 1983)~~ to residential utility customers receiving
5 (a) social security supplemental security income (SSI), (b) aid to families with dependent children
6 (AFDC), (c) aid to families with dependent children-- unemployed (AFDC-U), or (d) food stamps, if
7 such food stamp recipients are sixty years of age or older. The special reduced rate offered by
8 each gas and electric utility to its eligible customers shall be ~~twenty~~ thirty percent less than the rate
9 which would be applicable to such customers if they were not receiving any of the four forms of
10 assistance which confer eligibility for the special reduced rates. A customer of a utility offering
11 special reduced rates shall be eligible to receive such rates for each of the billing months of
12 December, January, February, March and April that correlates to a calendar month during which

13 that customer is eligible to participate in one or more of the qualifying programs specified in this
14 section, except as otherwise provided in this section. The correlation of billing months to calendar
15 months of eligibility to participate in a qualifying program is as follows: A December billing month
16 correlates to the calendar month of November; a January billing month correlates to the calendar
17 month of December; a February billing month correlates to the calendar month of January; a
18 March billing month correlates to the calendar month of February; and an April billing month
19 correlates to the calendar month of March. ~~After the billing month of April, 1984, no~~ No customer
20 shall be eligible to receive the special reduced rates until the billing month in which that customer
21 applies for such rates. ~~For the billing months of December, 1983, and January, February, March~~
22 ~~and April, 1984, a customer shall be eligible to receive a utility's special reduced rates for any of~~
23 ~~said billing months which correlates to a calendar month during which that customer is eligible to~~
24 ~~participate in one or more of the qualifying programs specified in this section, regardless of the~~
25 ~~date on which that customer applies for such rates: *Provided*, That the date of application falls on~~
26 ~~or prior to May 15, 1984. No customer who applies for the special reduced rates after May 15,~~
27 ~~1984 shall be eligible to receive such rates for any of the billing months of December, 1983 or~~
28 ~~January, February, March or April, 1984. Before any individual may qualify to receive the special~~
29 reduced rates, the following requirements must be met:

30 (a) The special reduced rates shall apply only to current customers or to those persons
31 who subsequently become customers in their own right. If an SSI, AFDC, AFDC- U or food stamp
32 recipient is living in a household which is served under the name of a person who is not an SSI,
33 AFDC, AFDC-U or food stamp recipient, that service may not be changed or have been changed
34 subsequent to March 12, 1983, to the name of the SSI, AFDC, AFDC-U or food stamp recipient in
35 order to qualify for service under the special reduced rates.

36 (b) The burden of proving eligibility for the special reduced rates shall be on the customer
37 requesting such rates. The department of human services shall establish by rules and regulations
38 procedures (1) to inform persons receiving any of the four forms of assistance which confer

39 eligibility for the special reduced rates about the availability of the special reduced rates, (2) to
40 assist applicants for the special reduced rates in proving their eligibility therefor, and (3) to assist
41 gas and electric utilities offering the special reduced rates in determining on a continuing basis the
42 eligibility therefor of persons receiving or applying for such rates. The commission shall establish
43 by rules and regulations procedures for the application for and provision of service under the
44 special reduced rates and for the determination and certification of revenue deficiencies resulting
45 from the special reduced rates. Within ten days of the effective date of this article, the commission
46 and the department of human services shall adopt temporary rules and regulations, as required by
47 this section, which rules and regulations shall not be subject to the requirements of chapter twenty-
48 nine-a and section seven, article one of chapter twenty-four except that they shall be filed with the
49 Secretary of State and published in the state register. These temporary rules and regulations shall
50 remain in effect until supplanted by permanent rules and regulations, which shall be adopted by
51 the commission and the department of human services within one hundred eighty days of the
52 effective date of this article. No customer who is a recipient of more than one of the four forms of
53 assistance which confer eligibility for the special reduced rates shall be eligible for more than one
54 ~~twenty thirty~~ percent discount for gas service and one ~~twenty thirty~~ percent discount for electric
55 service during each billing month that said customer is eligible to receive the special reduced
56 rates.

57 ~~(c) In order to provide each eligible residential utility customer the special reduced rates for~~
58 ~~the billing months of December, 1983, through April, 1984, (hereinafter referred to as the first~~
59 ~~special reduced rate season), each utility providing the special reduced rates shall credit against~~
60 ~~the amount otherwise owed by each customer an amount equal to the difference between the total~~
61 ~~amount that each such customer was actually billed during the first special reduced rate season~~
62 ~~and the total amount that each customer would have been entitled to be billed under the special~~
63 ~~reduced rates. Each such credit shall be fully reflected on the first bill issued to each such~~
64 ~~customer after approval of each such customer's application for the special reduced rates, except~~

65 ~~in cases where the interval between the approval and the issuance of the next bill is so short that it~~
66 ~~is administratively impracticable to do so, in which cases such credits shall be fully reflected on the~~
67 ~~second bill issued to each such customer after approval of that customer's application. If the~~
68 ~~interval between the approval and the issuance of the next bill is fifteen days or more, it shall not be~~
69 ~~deemed administratively impracticable to reflect such credit on the customer's first such bill.~~

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NOTE: The purpose of this bill is to create greater accountability and public input in the operations of the Public Service Commission; to remove the appointment process so Commission members are elected by non-partisan elections; revising the removal process in Commission to allow citizens to initiate removal for malfeasance and conflicts of interest; providing for reduced rates for qualifying low-income customers; and providing an accessible and more transparent method for consumers to participate in the utility ratemaking process.

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