

The Committee on Energy, Industry, and Mining moved to amend the bill by striking out everything after the enacting clause and inserting in lieu thereof the following:

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

**§24-2-19. Integrated Resource Planning Required.**

1           ~~(a) Not later than March 31, 2015, the Public Service Commission shall issue an order~~  
2 ~~directing any electric utility that does not have an existing requirement approved by the Public~~  
3 ~~Service Commission that provides for the future review of both supply side and demand side~~  
4 ~~resources to develop an initial integrated resource plan to be filed not later than January 1, 2016,~~  
5 ~~in conjunction with other similar deadlines required by other states or entities of the electric~~  
6 ~~utilities. This order may include guidelines for developing an integrated resource plan.~~

7           ~~(b)(1)(a) Any electric utility that has an existing requirement approved by the Public~~  
8 ~~Service Commission shall:~~

9           ~~(1) Have an integrated resource plan that provides for the future review of both supply~~  
10 ~~side and demand side resources is exempt from this initial integrated resource plan filing until~~  
11 ~~such time as that existing requirement has been satisfied. Thereafter, such electric utility is~~  
12 ~~required to file an integrated resource plan pursuant to §24-2-19(a) of this code.~~

13           ~~(2) Each electric utility that has filed the initial integrated resource plan shall and is subject~~  
14 ~~to Public Service Commission approval; and~~

15           ~~(2) File an updated plan at least every five years after the its initial integrated resource~~  
16 ~~plan has been was filed. Any electric utility that was exempt from filing an initial integrated~~  
17 ~~resource plan shall file an integrated resource plan within five years of satisfying any existing~~  
18 ~~requirement and at least every five years thereafter. All~~

19           (b) ~~Any integrated resource plans~~ plan shall comply with the provisions of any relevant  
20 order of the ~~Public Service~~ Commission establishing guidelines for the format and contents of  
21 updated and revised integrated resource plans.

22           (c) ~~The Public Service~~ Commission shall analyze and review an integrated resource plan  
23 ~~The Public Service Commission and~~ may request further information from the utility as necessary.  
24 ~~Nothing in this section affects~~ This section does not affect the obligations of utilities to obtain  
25 otherwise applicable Commission approvals.

26           (d) The Commission may consider both supply-side and demand-side resources when  
27 ~~developing~~ determining the requirements for the integrated resource plans. ~~The~~ Each plan shall  
28 compare projected peak demands with current and planned capacity resources in order to  
29 develop a portfolio of resources that represents a reasonable balance of cost and risk for the utility  
30 and its customers in meeting future demand for the provision of adequate and reliable service to  
31 its electric customers as specified by the ~~Public Service~~ Commission.

32           (e) The Commission shall ~~by order, entered no later than July 1, 2025,~~ require all electric  
33 utilities operating in the state to supplement their existing integrated resource plans to include a  
34 detailed plant upgrade and maintenance plan, improvement compliance schedule, and cost  
35 estimate for ensuring the operation of each generating unit through their planned retirement date.  
36 The supplemental integrated resource plan shall also include an analysis of the action necessary  
37 to extend the life of each generating unit ~~beyond their~~ its planned retirement date. Subject to  
38 notice and comment from interested parties, the Commission may approve the supplemental  
39 integrated resource plan without modification or require modification of the supplemental plan  
40 before it is approved.

41           (f) ~~The Commission shall~~ may promulgate rules:

42           (1) ~~Requiring the supplementation of integrated resource plans as required by this~~  
43 ~~provision. The rules shall also provide~~ to be supplemented as necessary; and

44 (2) Providing a procedure for utilities to submit an independent evaluation of any  
45 modification required by the Commission hereunder under this subsection or to challenge such  
46 the required modification.

47 (g) Except as provided in subsection (i) of this section, any integrated resource plan filed,  
48 amended, supplemented, or revised after July 1, 2026, shall include a comprehensive analysis  
49 and description of the utility's current and potential future use of advanced transmission  
50 technologies for electric transmission and distribution systems. The comprehensive analysis shall  
51 include information regarding:

52 (1) Economic feasibility;

53 (2) Technical feasibility;

54 (3) Potential deployment timetables; and

55 (4) Potential costs and benefits, including:

56 (A) Estimated total costs of potential advanced transmission technologies;

57 (B) Estimated costs that would be allocated to West Virginia retail customers; and

58 (C) Estimated benefits to West Virginia retail customers, including reduced costs due to  
59 increased capacity and efficiency.

60 (h) As used in this section, "advanced transmission technologies" means all forms of  
61 technology that increase the capacity, efficiency, reliability, resiliency, or safety of an existing or  
62 new electric transmission infrastructure including, without limitation:

63 (1) Advanced conductors that increase the power transfer capacity of transmission lines;

64 (2) Dynamic line rating that adjusts the rated capacity of transmission lines based on real-  
65 time conditions;

66 (3) Advanced power flow controls used to actively control the flow of electricity across  
67 transmission lines;

68 (4) Topology optimization that enables routing power flows around congestion points  
69 through transmission grid configurations; and

70 (5) Any other technologies designed to reduce transmission congestion, to increase the  
71 capacity, efficiency, reliability, resiliency, or safety of an existing or new electric transmission  
72 facility, or both.

73 (i) The requirements of subsection (g) of this section do not apply to any municipal power  
74 system, nonprofit entity, or rural cooperative.

**ARTICLE 9. WEST VIRGINIA FIRST ENERGY ACT.**

**§24-9-1. West Virginia First Energy Act; legislative findings; purpose; definitions.**

75 (a) This article is and may be cited as the "West Virginia First Energy Act".

76 (b) The Legislature finds as follows:

77 (1) Coal-fired and natural-gas-fired electric generation are essential to West Virginia's  
78 reliability, affordability, and energy security;

79 (2) For decades, West Virginia maintained some of the most stable electric rates in the  
80 nation due to the consistent use of in-state coal generation;

81 (3) As the utilization of coal-fired generation has declined and greater dependence has  
82 developed on out-of-state and intermittent sources, West Virginia's electric rates have become  
83 increasingly volatile, threatening both affordability and reliability;

84 (4) U.S. President Donald J. Trump issued Executive Order Numbers 14156 and 14154,  
85 declaring a National Energy Emergency, directing the federal government to unleash American  
86 energy production, and pledging to reverse federal initiatives and regulations that undermine  
87 domestic fossil energy, including coal, and to restore policies that support affordable, reliable  
88 energy production for American families and industry;

89 (5) President Trump's National Energy Emergency directives recognize that:

90 (A) Coal, natural gas, and other domestic fossil energy resources are central to national  
91 security, grid reliability, and economic competitiveness; and

92 (B) West Virginia's abundant coal and natural-gas resources provide the foundation of  
93 dispatchable generation needed to maintain year-round reliability, economic competitiveness,

94 and protection from external market disruptions;

95 (6) President Trump, through his National Energy Dominance Council and the federal  
96 Environmental Protection Agency, is revamping all policies and regulations impacting coal-fired  
97 electric generators so they can run more efficiently, for greater duration at optimum operation,  
98 and thus contribute more to West Virginia's energy output, coal related employment levels, and  
99 overall economic health;

100 (7) In enacting House Bill 2014 (2025 Regular Session), the Legislature incorporated  
101 provisions in §24-2-19 of this code requiring in-state coal fired electric generators to file revised  
102 Integrated Resource Plans specifying the necessary plant upgrades and improvements so their  
103 plants can operate well beyond their scheduled retirement dates at higher operating capacity  
104 levels;

105 (8) Matters generally related to homeland security and national defense are of paramount  
106 importance to West Virginia and its residents and coal-fired power plants provide optimal  
107 protection and resiliency toward state security and uninterrupted power supplies for household,  
108 industrial, and military applications; and

109 (9) In 2023, the Public Energy Authority was reactivated to provide needed assistance to  
110 the state's coal and natural gas industries and coal-based electric generation but has not been  
111 given the proper support and resources to achieve its purpose, intent, and desired results.

112 (c) The purpose of this article is to:

113 (1) Restore electric-rate stability through the continued utilization of in-state coal  
114 generation;

115 (2) Preserve employment and investment in West Virginia's coal and natural-gas  
116 industries;

117 (3) Coordinate with the Electric Grid Stabilization and Security Fund to sustain dependable  
118 baseload and mid-load generation capacity statewide; and

119 (4) Empower the Public Energy Authority to collect and assemble real-time knowledge of

120 in-state electric generating facilities, their continuous output of power, and the upgrades  
121 completed or planned for plants to achieve a higher capacity factor and optimum performance:

122 (d) As used in this article:

123 "Coal-fired facility" means a coal-fired electric generating facility that is regulated by the  
124 Public Service Commission;

125 "Dispatchable, non-intermittent replacement resource" means a coal-fired or natural-gas-  
126 fired electric generating unit that is physically located in West Virginia and capable of continuous  
127 operation regardless of weather conditions or time of day;

128 "PJM" means the PJM Interconnection LLC regional transmission organization; and

129 "Public Energy Authority" means the West Virginia Public Energy Authority created in §5D-  
130 1-4 of this code.

**§24-9-2. Minimum operational utilization requirement for coal-fired generation.**

131 (a) Each coal-fired facility located in West Virginia that supplies regulated utilities shall  
132 strive to achieve a minimum 69 percent utilization rate, measured on a 12-month rolling average.

133 (b) This utilization standard does not apply to natural-gas-fired generation, which serves  
134 as a load-following and reliability-balancing resource within the state's dispatchable fleet.

135 (c) Monthly utilization data for coal-fired facilities shall be reported to the Public Service  
136 Commission and Public Energy Authority in a manner prescribed by rules promulgated by the  
137 Commission in conjunction with the Public Energy Authority.

138 (d) A coal-fired facility's failure to maintain the minimum utilization level constitutes  
139 noncompliance with this article.

140 (e) The Commission, in consultation with the Public Energy Authority, shall promulgate  
141 rules within 100 days of the effective date of this section to establish a rate recovery program  
142 based on a utility's good faith effort to maintain the 69 percent capacity factor program. At a  
143 minimum, the program shall assign a percentage of cost recovery to each range of compliance  
144 comprised of increments of ten percentage points. Any time a utility is not generating electricity

145 due to a planned outage for upgrades or necessary maintenance is not factored into the  
146 calculation used to measure compliance and corresponding rate recovery with this section.

**§24-9-3. Protection against premature retirement.**

147 (a) A utility may not retire, deactivate, or otherwise reduce the capacity of any coal-fired  
148 or natural-gas-fired electric generating facility without prior approval of the Public Service  
149 Commission and Public Energy Authority. The Commission may approve such an action only if it  
150 finds that:

151 (1) The change will not:

152 (A) Increase retail rates;

153 (B) Increase exposure to wholesale-market volatility; and

154 (C) Reduce grid reliability or resource adequacy; and

155 (2) An in-state, dispatchable, non-intermittent replacement resource of equal or greater  
156 capacity is already operational and available on the West Virginia grid at the time of the proposed  
157 retirement, deactivation, or reduction.

158 (b) Unauthorized retirement, deactivation, or reduction is a violation of this section that is  
159 enforceable by the Commission.

**§24-9-4. Restrictions on intermittent-resource investment.**

160 (a) A utility regulated by the Public Service Commission may not include in rate base, seek  
161 regulated rate of return on, nor obtain cost recovery for any capital expenditure associated with  
162 construction, acquisition, expansion, or repowering of any new intermittent-generation resource,  
163 including wind or solar.

164 (b) Any utility subject to, but not in compliance with, §24-9-2 or §24-9-3 of this code is  
165 prohibited from entering into a power-purchase agreement for any new intermittent-generation  
166 resource, including wind or solar.

167 (c) The Commission may not approve cost recovery for intermittent resource generation  
168 unless the utility demonstrates that the investment:

- 169           (1) Does not increase retail rates;  
170           (2) Does not increase reliance on PJM wholesale markets; and  
171           (3) Does not reduce seasonal reliability.  
172           (d) The burden of proof rests solely on the utility to demonstrate the provisions of  
173 subsection (c) of this section.

**§24-9-5. Rate increases contingent on compliance.**

174           The Public Service Commission may consider or approve any rate increase only as is  
175 consistent with the utility's compliance with §24-9-2 of this article.

**§24-9-6. Electric grid stabilization and security fund coordination.**

176           Notwithstanding any provision of this code to the contrary, moneys from the Electric Grid  
177 Stabilization and Security Fund, created in §5B-2N-1 et seq. of this code, shall be used to stabilize  
178 generation costs and to support life-extension projects, fuel-security infrastructure, and grid-  
179 balancing measures, but may not be used for decommissioning or closing operating units.

**§24-9-7. Oversight of PJM market participation and resource planning.**

180           (a) The Public Service Commission and the Public Energy Authority shall evaluate each  
181 PJM capacity auction and ensure West Virginia generating units participate to maximize ratepayer  
182 benefit and limit exposure to market volatility. To the extent allowable by PJM market rules, any  
183 generating unit located in West Virginia with a capacity factor greater than 80% as listed by PJM  
184 on the date of enactment shall be designated an essential reliability resource for purposes of state  
185 oversight and participation.

186           (b) Each regulated utility shall include coal and natural-gas utilization, maintenance, and  
187 life-extension analysis in its Integrated Resource Plan.

188           (c) The Commission shall promulgate rules or adopt orders to implement this section and  
189 ensure alignment with state reliability and affordability goals.

**§24-9-8. Public utility requirements; operation plans; reporting.**

190 (a) Any coal-fired utility shall perform an operational analysis of each coal-fired unit within  
191 its plan or system of generators to identify feasible and technological upgrades to improve  
192 performance and extend efficient plant life cycle.

193 (b) On or before January 1, 2027, each utility shall submit the findings of its operational  
194 analysis to the Public Service Commission and Public Energy Authority along with the operation  
195 plan required by this section. A utility's integrated resource plan required by §24-2-19 of this code  
196 will satisfy the initial submission requirement of this section. The operational plan shall be updated  
197 annually thereafter.

198 (c) The Commission may not consider an application for cost recovery until the Public  
199 Energy Authority accepts the operational plan and determines that it is administratively complete  
200 and authentic.

201 (d) For purposes of fuel and grid resiliency and homeland security, on or before January  
202 1, 2027, any utility generating electric power for industrial or residential consumption within the  
203 state shall establish, and thereafter maintain, a minimum 90-day supply of the base fuel used to  
204 generate electricity.

205 (e) Operational plan; minimum requirements. – At a minimum, the operational plan shall  
206 contain the following:

207 (1) The plant fuel supply for the generation of electricity;

208 (2) The total distribution of electricity for each plant;

209 (3) How coal supply levels are to be maintained for each plant including all fuel supply  
210 contracts and a complete listing of fuel suppliers;

211 (4) All necessary plant upgrades to be proposed, started, or completed over the ensuing  
212 three-year cycle along with all pertinent contractors, including a copy of the scope of work and  
213 beginning and completion dates;

214 (5) The status of all upgrades completed, announced, or previously incorporated into the  
215 plan for any previous cycle;

216 (6) A maintenance schedule of all routine, scheduled, or planned maintenance along with  
217 a record of all unplanned or nonscheduled events leading to or causing emergency or needed  
218 maintenance;

219 (7) An up-to-date accounting of all expenditures or costs which have been recovered or  
220 for which an application for recovery has been submitted; and

221 (8) Information on any grants or low interest loans received from any state or federal  
222 agency.

223 (f) The Commission shall coordinate with each utility and the Public Energy Authority and  
224 may require utilities to submit any documents, records, or data necessary to ensure accurate  
225 calculation and reporting under this article.

**§24-9-9. Additional duties of the Public Energy Authority.**

226 (a) In addition to those specified in §5D-1-1 et seq. of this code, the Public Energy  
227 Authority has the following powers, duties, and responsibilities to ensure electric grid stability and  
228 homeland security:

229 (1) Meet with every public utility operating within this state to:

230 (A) Ascertain the general condition of each plant;

231 (B) Ascertain implementation of the operational plan;

232 (C) Consult with the plant operator to solicit any information required to verify progress  
233 completed on the most recently approved operational plan; and

234 (D) Verify the 90-day base fuel supply as required by §24-9-8 of this code; and

235 (2) At least annually, submit a report of its inspection findings and overall condition of  
236 public utilities operating within the state to the Department of Homeland Security's Division of  
237 Emergency Management, the Public Service Commission, and the Joint Committee on  
238 Government and Finance.

239 (b) Before any public utility publicly announces the retirement of a coal-fired unit, proposed  
240 shutdown of a coal-fired unit, closure of a plant, or proposed sale of a plant to another operator,  
241 the plant operator or public utility shall:

242 (1) Provide notice of the impending action to the Public Energy Authority, Department of  
243 Homeland Security's Division of Emergency Management, Public Service Commission, and Joint  
244 Committee on Government and Finance; and

245 (2) Receive approval for the impending action from the Public Energy Authority and Public  
246 Service Commission.

247 (c) The provisions of subsection (b) of this section do not apply where a plant would require  
248 emergency deenergization or shutdown for imminent danger or public safety.

**§24-9-10. Implementation.**

249 The Public Service Commission, in consultation with the Public Energy Authority, shall  
250 issue such general orders, directives, and requirements as are necessary to implement and  
251 enforce the provisions of this article. The Commission may require utilities to file data, reports,  
252 plans, or other information as necessary to ensure compliance with this article.