



WEST VIRGINIA LEGISLATURE
Legislative Rule-Making Review Committee

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Senator Jack Woodrum, Co-Chair
Delegate Doug Smith, Co-Chair

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE
Adair Burgess, Director

November 01, 2023

NOTICE OF ACTION TAKEN BY THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

To: Mac Warner, Secretary of State, State Register

To: Graham Platz
Public Energy Authority, WV
1900 Kanawha Blvd. East,
Building 3, Suite 800
Charleston, WV 25305

From: Legislative Rule-Making Review Committee

Proposed Rule: Rule to Petition the Public Energy Authority for Approval of Decommissioning or Deconstruction Activities Related to Any Coal, Oil, or Natural Gas Fueled Power Plant, 53-05

Legislative Rule-Making Review Committee Recommends that the West Virginia Legislature

1. Authorize the agency to promulgate the Legislative rule:

(A) as originally filed

(B) as modified by the agency

2. Authorize the agency to promulgate the Legislative rule with certain amendments; amendments and a statement of reasons for such recommendation is attached.

X

3. Authorize the agency to promulgate the Legislative rule as modified with certain amendments; amendments and a statement of reasons for such recommendation is attached.

4. Recommends that the Legislative rule be withdrawn; a statement of reasons for the recommendation is attached.

5. Recommends that the Legislative rule be rejected; a statement of reasons for the recommendation is attached.

Delegate Smith moves to amend the rule on page 3, by striking out subsection 4.3 in its entirety and inserting in lieu thereof a new subsection 4.3 to read as follows:

“4.3. One paper copy and one electronic PDF version of the Notice shall be filed with the Authority, in addition to the requirements set forth in 6.1., 6.2., 6.3., and 6.4. of this rule.”;

On page 7, subsection 5.3. by striking out the word “five (5)” and inserting in lieu thereof “20”;

On page 7, subdivision 5.3.1. by striking out the word “five (5)” and inserting in lieu thereof “20”;

On page 7, subdivision 5.3.3. by striking out the word “Eight (8) copies” and inserting in lieu thereof the words: “One paper copy and one electronic PDF version”;

On page 7, by striking out subdivision 6.2.1. in its entirety;

On page 7, subsection 6.3., after the word “A”, by striking the word “copy” and inserting in lieu thereof the following “paper copy or electronic PDF version”;

On page 8, subsection 7.6., by striking out the first comma, the words “not to exceed three (3) pages”, and the second comma;

On page 8, subdivision 8.1.3. by striking out “three-page”;

On page 8, by inserting a new subdivision, designated 8.1.4, to read as follows:

“The Authority shall make a decision on the Petition within one year after the submission of the Petition.”;

On page 9, by striking out subsections 9.2. and 9.2.1. in their entirety and inserting in lieu thereof the new subsections 9.2. and 9.2.1. to read as follows:

9.2. A Petitioner may redact or withhold any confidential or proprietary information that the Petitioner cannot legally disclose. The Petitioner shall include with the Petition a letter generally describing the nature of the information redacted or withheld and the legal justification for the redaction or withholding of the information.

9.2.1. The Authority may determine in executive session what additional information is exempt from public disclosure under the West Virginia Freedom of Information Act and may make any additional redactions prior to publishing the Petition on the Authority’s website.

And,

On page 9, by adding a new section, designated §53-5-10 to read as follows:

“§53-5-10. Appeals.

10.1. All proceedings in the appeal of the Authority’s actions concerning a Petition or the proceedings therefore, and any judicial review thereof, shall be conducted in accordance with the provisions of §29A-5-1 et seq. of this code and any procedural rules adopted pursuant thereto.”