



WEST VIRGINIA SECRETARY OF STATE
KRIS WARNER
ADMINISTRATIVE LAW DIVISION

eFILED
10/15/2026 2:47:40 PM
Office of West Virginia
Secretary Of State

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE AND FILING WITH THE LEGISLATIVE RULE-
MAKING REVIEW COMMITTEE**

AGENCY: Public Service Commission TITLE-SERIES: 150-41
RULE TYPE: Legislative Amendment to Existing Rule: No Repeal of existing rule: No
RULE NAME: 150-41 Rules for Electric Generating Capacity Utilization

PRIMARY CONTACT

NAME: Jane Neal
ADDRESS: Public Service Commission
201 Brooks Street
Charleston, WestVirginia 25301
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PHONE NUMBER: 304-340-0377

CITE STATUTORY AUTHORITY: 24-2-1d

EXPLANATION OF THE STATUTORY AUTHORITY FOR THE LEGISLATIVE RULE, INCLUDING A DETAILED SUMMARY OF THE EFFECT OF EACH PROVISION OF THE LEGISLATIVE RULE WITH CITATION TO THE SPECIFIC STATUTORY PROVISION WHICH EMPOWERS THE AGENCY TO ENACT SUCH RULE PROVISION:

IS THIS FILING SOLELY FOR THE SUNSET PROVISION REQUIREMENTS IN W. VA. CODE §29A-3-19(e)? No

IF YES, DO YOU CERTIFY THAT THE ONLY CHANGES TO THE RULE ARE THE FILING DATE, EFFECTIVE DATE AND AN EXTENSION OF THE SUNSET DATE? No

DATE eFiled FOR NOTICE OF HEARING OR PUBLIC COMMENT PERIOD: 7/20/2026

DATE OF PUBLIC HEARING(S) OR PUBLIC COMMENT PERIOD ENDED: 9/28/2026

COMMENTS RECEIVED: Yes

(IF YES, PLEASE UPLOAD IN THE COMMENTS RECEIVED FIELD COMMENTS RECEIVED AND RESPONSES TO COMMENTS)

PUBLIC HEARING: Yes

(IF YES, PLEASE UPLOAD IN THE PUBLIC HEARING FIELD PERSONS WHO APPEARED AT THE HEARING(S) AND TRANSCRIPTS)

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

WHAT OTHER NOTICE, INCLUDING ADVERTISING, DID YOU GIVE OF THE HEARING?

Procedural Order dated 7/20/2026 served on all electric utilities and Consumer Advocate Division and publication in the Charleston Gazette on 7/20/2026 and 8/19/2026 Order setting a hearing served on all electric utilities and notice filed with WVSOS. Published in the Gazette on 8/20/2026. July 20, 2026 notice of public comment period filed with the WVSOS. August 19, 2026 filed with WVSOS.

SUMMARY OF THE CONTENT OF THE LEGISLATIVE RULE, AND A DETAILED DESCRIPTION OF THE RULE'S PURPOSE AND ALL PROPOSED CHANGES TO THE RULE:

This rule is promulgated pursuant to the mandate contained in W. Va. Code §24-2-1d(f), which required the Commission to review and regulate generating capacity and consumer economic dispatch of electric utilities subject to the jurisdiction of the Public Service Commission. The summary of all proposed changes is voluminous and will be filed as a supporting document along with the Commission Order.

STATEMENT OF CIRCUMSTANCES WHICH REQUIRE THE RULE:

Passage of HB 2014 in 2025 which amended WV Code 24-2-1d requiring the Commission to promulgate rules.

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED LEGISLATIVE RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

No impact on the revenue of State Government

B. ECONOMIC IMPACT ON SPECIAL REVENUE ACCOUNTS:

No impact on Special Revenue Accounts

C. ECONOMIC IMPACT OF THE LEGISLATIVE RULE ON THE STATE OR ITS RESIDENTS:

It is indeterminable at this time. Any economic impact on the State or its Residents can only be determined upon the filing and review of a rate case with the Commission at a future date.

D. FISCAL NOTE DETAIL:

Effect of Proposal	Fiscal Year		
	2026 Increase/Decrease (use "-")	2027 Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost			0
Personal Services			0
Current Expenses			0
Repairs and Alterations			0
Assets			0
Other			0
2. Estimated Total Revenues			0

E. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

n/a

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jane Neal -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

**TITLE 150
LEGISLATIVE RULE
PUBLIC SERVICE COMMISSION**

SERIES 41
RULES GOVERNING REVIEW AND REGULATION OF GENERATING CAPACITY AND
CONSUMER ECONOMIC DISPATCH OF ELECTRIC UTILITIES

§150-41-1. General

1.1. Scope. -- The following rules govern the review and regulation of generating capacity and consumer economic dispatch of electric utilities subject to the jurisdiction of the Public Service Commission pursuant to W. Va. Code §24-2-1d.

1.2 Authority. -- W. Va. Code §24-2-1d.

1.3. Filing Date. -- .

1.4. Effective Date. -- .

1.5. Sunset Date. – This rule shall terminate and have no further force and effect on August 1, 2031.

1.6. Intent. -- This rule is promulgated pursuant to the mandate contained in W. Va. Code §24-2-1d(f), which required the Commission to review and regulate generating capacity and consumer economic dispatch of electric utilities subject to the jurisdiction of the Public Service Commission.

1.7. The contact information for the Commission is:

Public Service Commission of West Virginia
201 Brooks St.
P.O. Box 812
Charleston, WV 25323
Main switchboard telephone 304-340-0300
Main telefax 304-340-0325
Web site: www.psc.state.wv.us

§150-41-2. Definitions.

The definitions set forth in W. Va. Code §24-1-2, and the definitions for “projected deficient capacity” and “consumer economic dispatch,” set forth in W. Va. Code §24-2-1d, shall apply to this rule, and have the same meanings when used herein, unless the context clearly indicates otherwise. For purposes of this rule, the following additional terms have the meanings as described below:

2.1. “Capacity factor” means the ratio of the actual energy produced by a generation unit over a specific period to the maximum possible energy it could have produced if running at full capacity during that same period. The term “full capacity” means the gross dependable capacity, after considering ambient conditions, that the unit can sustain over a specified period of time when not restricted by deratings as described in NERC Generating Availability Data System Data Reporting Instructions 1/1/26 Section IV . (<https://www.nerc.com/globalassets/programs/rapa/gads/conventional/2026-gads-dri.pdf>).

2.1.1. “Net capacity factor” means the ratio of the net electricity delivered to the grid by a generation unit, for the time considered, to the energy that could have been generated at continuous full

capacity operation minus any capacity utilized for that unit's station service and auxiliary load during the same period.

2.2. "Capacity Resources" means resources that can provide electricity or reduce the demand for electricity and includes megawatts of net capacity from existing or planned Generation Resources or load reduction capability provided by demand resources.

2.3. "Economic Dispatch" for purposes of PJM market dispatching means the optimization across the PJM system of the incremental cost of delivered power by allocating generating requirements among the PJM on-control units with consideration of such factors as incremental generating costs and incremental transmission losses. Economic dispatch is different than "consumer economic dispatch," which is defined in W. Va. Code §24-2-1d(e) as the process of operating generation facilities to produce electricity at the lowest cost while reliably meeting consumer demand, considering the operational limits of generation and transmission facilities.

2.4. "Effective Load Carrying Capability" (ELCC) is the capacity value fractional multiplier applied by PJM to various resources' maximum rated capacity to define their expected output during periods of maximum stress on the system. ELCC values are revised annually by PJM.

2.5. "Fixed Resource Requirement" (FRR) is an alternative option for Load Serving Entities (LSEs) to self-supply capacity resources rather than participate in the PJM RPM auction process.

2.6. "Generation Resource" means any generating unit that meets the qualification requirements to participate in the PJM capacity market or energy market.

2.7. "Installed Capacity" (ICAP) is the summer capacity rating for capacity resources before adjustments for expected forced outages.

2.8. "Locational Marginal Price" (LMP) is the pricing mechanism used in the PJM wholesale electricity market and represents the hourly integrated marginal market clearing price for electrical energy at the location where the energy is delivered into PJM or received to serve load.

2.9. "Margin" means, for each megawatt-hour of electricity sold at wholesale from a generating unit, including deliveries into the PJM market, revenue received for the electricity less the incremental cost of producing the electricity. Incremental cost means the additional cost incurred by a generating unit to produce one additional megawatt-hour of electricity, including fuel and other variable costs that increase or decrease with the amount of electricity generated.

2.10. "Office of Energy" means the West Virginia Office of Energy established in W.Va. Code §5B-2F-2.

2.11. "PJM" stands for the PJM Interconnection LLC, the regional transmission organization responsible for coordinating, controlling, and transmitting electricity throughout its authorized footprint.

2.12. "Reliability Pricing Model" (RPM) is PJM's resource adequacy construct designed to acquire capacity resources to meet net capacity requirements on the PJM system.

2.13. "Self-schedule" is the process by which a generation owner elects to submit a specific hourly MW schedule for a generating resource into PJM's Day-Ahead Market rather than allowing PJM's market optimization process to determine whether and at what level the resource will be scheduled. A self-scheduled resource indicates the owner's intent to operate at the specified output levels, but the resource remains subject to PJM operating requirements, transmission constraints, and reliability directives.

2.14. “Price-Taker RPM Participation” means offering available Unforced Capacity from a Generation Capacity Resource into the PJM Reliability Pricing Model (“RPM”) Auction as a Price-Taker. A Price-Taker offer indicates that the utility is willing to accept the RPM Auction clearing price for the offered capacity regardless of the level of that clearing price, unless the offer is restricted by applicable PJM market-power mitigation requirements. The utility shall receive the applicable RPM clearing price for all offered capacity that clears the auction.

2.15. “Unforced Capacity” (UCAP) is the MW value of accredited capacity as assigned by PJM that an individual generating unit provides to PJM.

§150-41-3. Participation in PJM Capacity Auctions.

3.1. Capacity Auctions. -- The Commission encourages voluntary participation by every electric generating unit subject to the jurisdiction of the Commission in each PJM capacity auction unless the generating unit owner has committed the unit as an FRR unit or into a contract with another party that limits such unit’s availability to participate in the PJM capacity auction.

3.2. RPM Auction Option. -- To enable the Commission to monitor and evaluate the participation in the capacity market each electric utility subject to jurisdiction of the Commission that owns or is contractually entitled to a capacity resource and is operating under the RPM option in PJM, shall report to the Commission its proposed capacity offers for the RPM base residual capacity auction as described herein.

3.2.1. The utility report shall include the following:

3.2.1.a. A listing of its owned or under contract capacity resources,

3.2.1.b. The ICAP and UCAP of each resource,

3.2.1.c. The PJM assigned ELCC of each resource,

3.2.1.d. Identification of units that are eligible to offer into the capacity auction,

3.2.1.e. The UCAP quantity of each eligible resource proposed to be offered into the market, and

3.2.1.f. Other information which the Commission determines is necessary to allow the Commission to meet the objectives of this subsection.

3.2.2. This report shall be submitted to the Commission no later than seven (7) calendar days after capacity auction results are posted. The Commission may modify the filing deadline by a general or specific order.

3.2.3. The utility participating in this model shall also file a verified statement or testimony explaining why it chooses to forego the FRR option and the benefits to its West Virginia ratepayers of remaining in the RPM auction. The benefits should be listed along with dollar values of the benefits achieved over the last three PJM delivery years. The statement or testimony shall provide information on the timing and steps necessary to switch to FRR and any jurisdictional issues that would complicate such switching if required by the Commission.

3.2.4. The utility shall simultaneously file a public version and a confidential version of the information contained in its report, which shall comply with the Commission directives for limiting and marking redacted information. The confidential version shall be deemed to be a confidential trade secret,

as recognized in W.Va. Code §29B-1-4, and shall not be available to any entity seeking access to the information, unless access under a Confidentiality Agreement is required by order of the Commission.

3.3. FRR Option. -- To enable the Commission to monitor and evaluate the participation of the utility in the capacity market each electric utility subject to the jurisdiction of the Commission that owns or is contractually entitled to a capacity resource and is operating under the FRR option in PJM shall report to the Commission its current capacity requirement as assigned by PJM, and the resources that it owns or has under contract that qualify to satisfy its PJM FRR capacity obligation.

3.3.1. The information filed shall include the following:

3.3.1.a. A description of the timing for the development of the capacity obligation by PJM,

3.3.1.b. The current ICAP and UCAP of each FRR resource,

3.3.1.c. The PJM assigned ELCC of each capacity resource, and

3.3.1.d. Other information which the Commission determines is necessary to allow the Commission to meet the objectives of this subsection.

3.3.2. This report shall be submitted to the Commission no later than seven (7) calendar days after its annual FRR requirement is provided by PJM. The Commission may modify the filing deadline by a general or specific order.

3.3.3. The FRR utility shall file a verified statement or testimony explaining why it chooses to forego the RPM and the corollary benefits to West Virginia ratepayers. The benefits should be listed along with dollar values of the benefits achieved over the last three PJM delivery years. The statement or testimony shall also provide information on the timing and steps necessary to switch to the RPM and any jurisdictional issues that would complicate such switching if required by the Commission.

§150-41-4. Consumer Economic Dispatch.

4.1. Consumer Economic Dispatch. -- In accordance with W. Va. Code §24-2-1d(e) the Commission shall review each generating unit's consumer economic dispatch to determine if each unit is operated to produce electricity at the lowest cost consistent with consumer demand, operational limits of the generation facility and transmission facilities, and considering the requirements or obligations to operate in conformance with applicable PJM market rules. Consumer economic dispatch measures the operating cost of individual generating units and maximizing consumer economic dispatch measures improving efficiency or reducing costs of operating generating units, not the dispatch of units at increased capacity factors. To determine if the utility is operating each generating unit at its lowest reasonable cost, the Commission will review the cost of producing electricity per kilowatt hour of output at each generating unit at varying capacity utilization levels. The Commission review will take into consideration that the age of facility components, life extension, and capital investment timing will enter into the evaluation of optimum consumer economic dispatch. Each electric utility should plan the operation of each generating unit under its control to produce electricity at the lowest reasonably achievable cost per kilowatt hour.

4.2. Generation Dispatch Reports. -- Each electric utility subject to this rule that owns or controls energy resources shall file a Generation Dispatch Report, which shall include information regarding the hourly dispatch of each of its generation units into the PJM day-ahead and real-time energy markets for the months prior to the filing month. The Generation Dispatch Report is due no later than the last business day of the first calendar month of each quarter and shall include information for the three months immediately preceding the filing month.

4.2.1. Information on Consumer Economic Dispatch. -- Each Generation Dispatch Report filed pursuant to this rule shall provide the cost of generation at actual output levels and the estimated cost at the output level to generate safely and reliably that would have produced the lowest operating cost per kilowatt hour for each generation unit. If units are run at less than the maximum consumer economic dispatch, which is the estimated lowest cost per kilowatt hour output level, the utility shall explain why the lowest cost was not achieved.

4.2.2. In a working and editable spreadsheet with the formulas intact, the report shall show for each generating unit for each hour of each day the following information:

4.2.2.a. The net capacity available to be offered into the day-ahead market,

4.2.2.b. The volume of net capacity offered into the market and the related cost-based and market-based bid amounts as dollars per megawatt hour,

4.2.2.c. The net capacity that cleared the day-ahead market,

4.2.2.d. The self-scheduled capacity delivered into the day-ahead market, and

4.2.2.e. The PJM LMP at the pricing nodes for each capacity resource, including the PJM identification number for each node.

4.2.3. The Generation Dispatch Report shall also indicate multiple-day volumes and offer prices if energy market offers or Self-scheduled volumes were submitted for days beyond the next Operating Day.

§150-41-5. Capacity Factors.

5.1. Information on Capacity Factors. -- Each electric utility subject to the rate jurisdiction of the Commission that operates generation facilities shall report in its Generation Dispatch Report the capacity factors and net capacity factors achieved at each generating unit and the underlying values supporting the calculated capacity factors.

5.2. Verified Statement. -- Each electric utility shall include in its Generation Dispatch Report a verified statement which may be in standard narrative format or in question and answer format explaining the capacity availability. The report shall include:

5.2.1. Reasons for outages and derates; and

5.2.2. Duration of outages and derates.

5.3. Capacity Factor. -- The Commission expects generating electric utilities subject to the rate jurisdiction of the Commission to maintain their generation units and schedule maintenance to minimize down time to allow it to be able to achieve a minimum net capacity factor of sixty-nine percent (69%); provided, this shall not require a utility to operate a generating unit at a 69% net capacity factor if doing so will cause an increase in the charges for electric energy. Considering that net capacity factors can vary hourly, daily, and monthly due to planned and unplanned outage maintenance, market conditions, and other factors, the reported capacity factors will be accumulated and evaluated over twelve-month periods.

5.3.1. The utilities will include in their Generation Dispatch Reports a monthly capacity factor schedule showing their actual capacity factors for each steam generating unit in tabular format for the report period and a rolling monthly average up to December. Beginning with January of each year the rolling average reported shall restart. All prior months' data shall continue to be reported even though the rolling average is restarted.

5.3.2. The utilities are expected to take advantage of PJM Manual 11 Market Rules 2.3.3., *et seq.*, which allow self-scheduling. The utility is not expected to operate at a net-positive margin in all hours of the day. It is expected to reasonably anticipate and project expected day-ahead market prices and schedule increments of generation to minimize negative margins during periods of low market prices while allowing for reasonable and limited ramping of generation levels as market prices fluctuate in the day-ahead market.

§150-41-6. Management of fuel supplies and contracts.

6.1. Information on Fuel. -- The electric utility shall continue to file fuel information. The monthly filing shall include a printed 8 ½ x 11 inch document and a PDF file properly formatted for printing as an 8 ½ x 11 inch document along with a spreadsheet relating to the fuel supplies for the utility. This data shall comply with the detailed information required by W. Va. Code §24-2-14. A separate monthly report pursuant to W. Va. Code §24-2-14 is not required. In addition to the statutory fuel information required, the report shall include:

6.1.1. If there was a fuel stockpile adjustment for any report month, the utility shall file a copy of the stockpile report and the derivation of the adjustment in tons and dollars.

6.1.2. If any stockpile adjustment exceeds five percent of the tonnage or dollar value of the inventory, the electric utility shall file a verified statement or testimony explaining the reasons for the adjustment.

6.2. Solicited Bids for Coal. -- For each monthly fuel report, the utility shall report the expected date for its next solicitation of bids for coal. It shall also report on the results and details of any bids received and contracts consummated prior to the report month.

6.3. Coal Contracting. -- When eliciting requests for coal contracting proposals, each electric utility subject to these rules shall make it clear that contracts indexed to the price of PJM day-ahead LMP will be considered. It shall indicate that alternative indexing that is expected to follow electricity wholesale prices in PJM may also be offered and will be considered by the utility. It shall make it clear that proposals may contain an indexed contract, a fixed price contract, or a mix of fixed-price and indexed contracts. The utility shall endeavor to maintain a mix of short-term and long-term contracts that also may contain a mix of fixed-price and indexed contracts.

6.4. To impute volumes and cost of fixed-price coal and index-priced coal burned the utility may prorate volumes and costs on the basis of the relative volume and cost of those contract price categories in inventory at the beginning of each month, or on such other reasonable allocation method accepted by the commission.

§150-41-7. Additional information.

7.1. Additional Information. -- The information required by this rule is not exhaustive of all information that the electric utility must provide.

7.1.1. The Commission may require additional or differently formatted information if the Commission determines that the additional information is necessary:

7.1.1.a. To ensure that the utility is maximizing the production of electricity from generating units,

7.1.1.b. To ensure that the utility is acting to reduce energy costs for West Virginia ratepayers,
or

7.1.1.c. To clarify, explain, justify, or further explain any information required by the code or this rule to be provided to the Commission.

7.1.2. A modification may be achieved by general order, specific order applicable to a single utility, or as a request from the Commission or designated staff.

7.1.3. It shall be the responsibility of the utility to provide timely additional requested information.

7.2. Amended Deadlines. – If a utility is unable to meet any deadline required by this rule, and such failure is because it has not or cannot receive the PJM information in time, or for any reason outside the control of the utility, then the utility may request the Commission to modify the deadline. The Commission may grant the requested modification, for good cause shown, and shall set a new deadline. The Commission may employ a standard extension timeframe for utilities, when the cause for the deadline extension is a failure to timely receive PJM information.

§150-41-8. Confidentiality

8.1. In addition to section 3.2.4 of this rule, but subject to the other provisions of this section, all confidential business information, including trade secrets or other proprietary data or processes, shall be exempt from disclosure pursuant to W. Va. Code §§29B-1-1 *et seq.*

8.2. If the Director of the Office of Energy requests confidential information filed with the Commission by an electric utility pursuant to this rule, the request shall not be subject to the Commission procedures applicable to a party requesting confidential information in a formal Commission proceeding or to a request made pursuant to the West Virginia Freedom of Information Act. The Commission shall promptly transmit the request to the utility. Upon receipt of such request, the utility shall promptly arrange to provide the requested information directly to the Office of Energy pursuant to an appropriate confidentiality agreement between the utility and the Office of Energy.