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HOUSE BILL NO. 1914

Offered January 10, 2001

Prefiled January 8, 2001

A BILL to amend the Code of Virginia by adding a section numbered 56-466.1, relating to public utilities; pole attachments by cable television systems and telecommunications service providers.

Patron—Rollison

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 56-466.1 as follows:

§ 56-466.1. Pole attachments; cable television systems and telecommunications service providers.

A. As used in this section:

"Cable television system" means any person licensed, franchised or certificated pursuant to § 15.2-2108, including any trustee, receiver, assignee or personal representative thereof, who transmits television signals, for distribution to subscribers of its services for a fee, by means of wires or cables connecting its distribution facilities with its subscriber's television receiver or other equipment connecting to the subscriber's television receiver, and not by transmission of television signals through the air.

"Pole attachment" means any attachment by a cable television system or provider of telecommunications service to a pole, duct, conduit, right-of-way or similar facility owned or controlled by a public utility.

"Public utility" has the same meaning ascribed thereto in § 56-232.

"Rearrangement" means work performed at the request of a telecommunications service provider or cable television system to, on or in an existing pole, duct, conduit, right-of-way or similar facility owned or controlled by a public utility that is necessary to make such pole, duct, conduit, right-of-way, or similar facility usable for a pole attachment. "Rearrangement" shall include replacement, at the request of a telecommunications service provider or cable television system, of the existing pole, duct, conduit, right-of-way, or similar facility if the existing pole, duct, conduit, right-of-way, or similar facility does not contain adequate surplus space or excess capacity and cannot be rearranged so as to create the adequate surplus space or excess capacity required for a pole attachment.

"Telecommunications service provider" means any public service corporation or public service company that holds a certificate of public convenience and necessity to furnish local exchange telephone service or interexchange telephone service.

B. Every public utility shall permit, upon reasonable terms and conditions and the payment of reasonable annual charges and the cost of any required rearrangement, the attachment of any wire, cable, facility or apparatus to its poles or pedestals, or the placement of any wire, cable, facility or apparatus in conduit or duct space owned or controlled by it, by any telecommunications service provider or cable television system that is authorized, and has obtained any public or private authorization and permission required by law, to construct and maintain the attachment, provided that the attachment does not interfere, obstruct or delay the service and operation of the public utility or create a safety hazard.

C. Every public utility that receives a request for a pole attachment from a telecommunications service provider or cable television system shall negotiate in good faith with the requesting telecommunications service provider or cable television system.

D. Every public utility shall provide a telecommunications service provider or cable television system with nondiscriminatory access to any pole, duct, conduit, right-of-way, or similar facility owned or controlled, in whole or in part, by the public utility.

E. Notwithstanding the provision of subsection D, a public utility providing electric utility service may deny access by a telecommunications service provider or cable television system to any pole, duct, conduit, right-of-way, or similar facility owned or controlled, in whole or in part, by such public utility, provided such denial is made on a nondiscriminatory basis on grounds of insufficient capacity or reasons of safety, reliability, or generally applicable engineering principles.

F. If a public utility and a telecommunications service provider or cable television system are unable to agree upon the terms, conditions or amount of annual charges for a pole attachment or upon the terms, conditions or cost of a rearrangement, either may petition the Commission to arbitrate any unresolved issues. In such event the Commission shall establish and fix the terms, conditions and compensation for providing space needed for pole attachments in a manner that ensures that the public

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59 utility shall recover (i) not less than all of the additional costs of providing and maintaining pole
60 attachments and (ii) not more than the associated capital cost and operating expenses of the public
61 utility attributable to that portion of the pole, duct or conduit used for the pole attachment, including a
62 share of the required support and clearance space. In establishing and fixing such terms, conditions,
63 and compensation, the Commission shall consider the interests of the subscribers or customers of the
64 attaching telecommunications service provider or cable television system, the public utility upon whose
65 facilities the attachment is made, and the customers of the public utility.

66 G. This section shall not apply to any pole attachments regulated pursuant to 47 U.S.C. § 224.