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SENATE BILL NO. 1461

Offered January 21, 2011

A BILL to amend the Code of Virginia by adding in Title 56 a chapter numbered 27, consisting of sections numbered 56-605 through 56-608, relating to universal broadband deployment; priority rural broadband suppliers.

Patron—Puckett

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 56 a chapter numbered 27, consisting of sections numbered 56-605 through 56-608, as follows:

CHAPTER 27.**UNIVERSAL BROADBAND DEPLOYMENT ACT.****§ 56-605. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Cooperative" means a utility formed under or subject to Chapter 9.1 (§ 56-231.15 et seq.).

"Distributor" means a person owning, controlling, or operating a retail distribution system to provide electric energy directly to retail customers.

"Electric utility" means any person that generates, transmits, or distributes electric energy for use by retail customers in the Commonwealth, including any investor-owned electric utility, cooperative electric utility, or electric utility owned or operated by a municipality.

"Municipality" means a city, county, town, authority, or other political subdivision of the Commonwealth.

"Person" means any individual, corporation, partnership, association, company, cooperative, business, trust, joint venture, or other private legal entity and the Commonwealth or any municipality.

"Priority rural broadband provider" means any person that is certified by the Commission as a priority rural broadband provider pursuant to this chapter.

"Rural county" means a county with a population of less than 25,000 as reflected in the most recent official population estimates published by the Weldon Cooper Center for Public Service of the University of Virginia, and in which fewer than 90 percent of business locations or 50 percent of homes have access to broadband service.

"Universal broadband service" means providing fiber optic or copper-based broadband service, as defined by the Federal Communications Commission, to 90 percent or more of the residential and business lines within a rural county.

§ 56-606. Commission authority.

The Commission shall adopt any rules and regulations necessary to implement the provisions of this chapter.

§ 56-607. Certification as a priority rural broadband supplier.

A. Any person authorized to do business in the Commonwealth may be certified by the Commission as a priority rural broadband supplier by satisfying such reasonable and nondiscriminatory requirements as may be specified by the Commission, which may include requirements that such person (i) demonstrate, in a manner satisfactory to the Commission, financial responsibility, including the posting of a bond as deemed adequate by the Commission to ensure that financial responsibility; (ii) pay an annual certification fee to be determined by the Commission; (iii) pay all taxes and fees lawfully imposed by the Commonwealth or by any municipality; and (iv) pay all pole attachment fees for its attachments in the Commonwealth, including, without limitation, penalties for unauthorized attachments or creating safety hazards. In addition, as a condition of obtaining, retaining, and renewing any certification pursuant to this section, a person shall satisfy such reasonable and nondiscriminatory requirements as may be specified by the Commission, including but not limited to requirements that such person demonstrate (a) technical capabilities as the Commission may deem appropriate; (b) adherence to all applicable safety codes; and (c) adherence to and fulfillment of the obligations imposed on priority rural broadband suppliers under this chapter.

B. An applicant for certification as a priority rural broadband provider shall identify in its application the rural counties in which it commits to provide universal broadband service on or before December 31, 2018. Such rural counties shall be considered the rural broadband provider's allocated broadband service territory.

C. The Commission may adopt other rules and regulations governing the requirements for obtaining,

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59 retaining, and renewing a certificate pursuant to this section and may, as appropriate, refuse to issue a
60 certificate to, or suspend, revoke, or refuse to renew the certificate of, any person that does not meet
61 those requirements.

62 § 56-608. Privileges and obligations of a priority rural broadband supplier.

63 A. A priority rural broadband supplier shall have the following privileges:

64 1. To file tariffs for approval by the Commission pursuant to Chapter 10 (§ 56-232 et seq.) to
65 provide the opportunity to recover its prudent investment in its allocated broadband service territory
66 and a reasonable and just return on that investment;

67 2. To use existing telephone, electric utility, and Virginia Department of Transportation easements in
68 its allocated broadband service territory to the extent allowed by law;

69 3. To be the exclusive provider of broadband services in its allocated broadband service territory,
70 provided that this section shall not prohibit any wireless service provider or incumbent local exchange
71 carrier from providing the same or similar service in such territory;

72 4. To attach broadband facilities to and maintain such facilities on telephone and electric utility
73 poles in its allocated broadband service territory at a just and reasonable cost determined by the
74 Commission; however, this subdivision shall not apply to broadband facilities of municipal utilities;

75 5. To be the exclusive user of its broadband facilities in its allocated broadband service territory
76 until January 1, 2016; and

77 6. To exercise the powers of a public service corporation set forth in § 56-49.

78 B. A priority rural broadband supplier shall have the following obligations:

79 1. Commencing January 1, 2016, to provide universal rural broadband service and to connect any
80 retail customer located within its allocated territory to its broadband facilities;

81 2. To comply with all of the obligations of a public service company or a public utility set forth in
82 Chapters 1 (§ 56-1 et seq.), 2 (§ 56-47 et seq.), 3 (§ 56-55 et seq.), 4 (§ 56-76 et seq.), 5 (§ 56-88 et
83 seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), 10.3 (§ 56-265.14 et seq.), and 15 (§ 56-458 et
84 seq.);

85 3. To promptly report all its pole attachments, pay its proportionate share of any right of way
86 maintenance or survey undertaken by the host utility, and timely pay any penalties incurred for
87 unauthorized or unreported attachments;

88 4. To comply with all applicable utility industry safety and quality standards and requirements
89 regarding its facilities and service;

90 5. To promptly follow host utility instructions with respect to facility safety, maintenance, pole
91 replacement, and repairs; and

92 6. To provide open access to its facilities on and after January 1, 2016.