15103106D

HOUSE BILL NO. 1696

Offered January 14, 2015
Prefiled January 12, 2015

A BILL to amend and reenact § 56-49 of the Code of Virginia, relating to public service corporations; public access to records relating to exercise of right of eminent domain.

Patrons—Bell, Richard P., Yost and Landes

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 56-49 of the Code of Virginia is amended and reenacted as follows:

§ 56-49. Powers; access to certain records.

A. In addition to the powers conferred by Title 13.1, each public service corporation of this Commonwealth organized to conduct a public service business other than a railroad shall have the power:

1. To cause to be made such examinations and surveys for its proposed line or location of its works as are necessary to the selection of the most advantageous location or route or for the improvement or straightening of its line or works, or changes of location or construction, or providing additional facilities, and for such purposes, by its officers and servants, to enter upon the lands or waters of any person but subject to responsibility for all damages that are done thereto, and subject to permission from, or notice to, the landowner as provided in § 25.1-203.

2. To acquire by the exercise of the right of eminent domain any lands or estates or interests therein, sand, earth, gravel, water or other material, structures, rights-of-way, easements or other interests in lands, including lands under water and riparian rights, of any person, which are deemed necessary for the purposes of construction, reconstruction, alteration, straightening, relocation, operation, maintenance, improvement or repair of its lines, facilities or works, and for all its necessary business purposes incidental thereto, for its use in serving the public either directly or indirectly through another public service corporation, including permanent, temporary, continuous, periodical or future use, whenever the corporation cannot agree on the terms of purchase or settlement with any such person because of the incapacity of such person or because of the inability to agree on the compensation to be paid or other terms of settlement or purchase, or because any such person cannot with reasonable diligence be found or is unknown, or is a nonresident of the Commonwealth, or is unable to convey valid title to such property. Such proceeding shall be conducted in the manner provided by Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 and shall be subject to the provisions of § 25.1-102. However, the corporation shall not take by condemnation proceedings a strip of land for a right-of-way within 60 feet of the dwelling house of any person except (i) when the court having jurisdiction of the condemnation proceeding finds, after notice of motion to be granted authority to do so to the owner of such dwelling house, given in the manner provided in §§ 25.1-209, 25.1-210, and 25.1-212, and a hearing thereon, that it would otherwise be impractical, without unreasonable expense, to construct the proposed works of the corporation at another location; (ii) in case of occupancy of the streets or alleys, public or private, of any county, city or town, in pursuance of permission obtained from the board of supervisors of such county or the corporate authorities of such city or town; or (iii) in case of occupancy of the highways of this Commonwealth or of any county, in pursuance of permission from the authorities having jurisdiction over such highways. A public service corporation which has not been ~~(i)~~ *(a)* allotted territory for public utility service by the State Corporation Commission or ~~(ii)~~ *(b)* issued a certificate to provide public utility service shall acquire lands or interests therein by eminent domain as provided in this subdivision for lines, facilities, works or purposes only after it has obtained any certificate of public convenience and necessity required for such lines, facilities, works or purposes under Chapter 10.1 (§ 56-265.1 et seq.) ~~of this title~~.

~~And provided, further, that notwithstanding~~ *B. Notwithstanding* the ~~foregoing nor~~ *provisions of subsection A or* any other provision of the law, the right of eminent domain shall not be exercised for the purpose of acquiring any lands or estates or interests therein nor any other property for the construction, reconstruction, maintenance or operation of any pipeline for the transportation of coal.

C. Any public service corporation that (i) is authorized to exercise any right or authority granted to it pursuant to any provision of subsection A and (ii) files or prefiles for a certificate or other permitting document with the Commission, the Federal Energy Regulatory Commission, or any other regulatory or governing body, with respect to any project or activity described in subsection A, shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) that apply to access to public

INTRODUCED

8/7/22 15:39

records. For purposes of this subsection, "public records" means all public records, as defined in § 2.2-3701, pertaining to the project or activity for which a filing or prefiling described in clause (ii) is made by the public service corporation.

D. For the purposes of this section, the words "public service corporation" shall include any Virginia limited liability company as defined in § 56-1 that has been issued a certificate of public convenience and necessity authorizing it to furnish telecommunications services of a public utility set forth in subdivision (b) of § 56-265.1 and that seeks to construct or acquire facilities for use in providing the certificated telecommunications service.