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HOUSE JOINT RESOLUTION NO. 173

Offered January 26, 1998

Establishing a joint subcommittee to study the power of eminent domain granted to companies furnishing utility services.

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Referred to Committee on Rules

WHEREAS, a new competitive era has arrived in the telecommunications industry and, with the impending federal deregulation of electricity, a similar climate could develop in the electric power industry; and

WHEREAS, traditionally companies furnishing utility services were assigned discrete operating territories in which they were the sole provider of a particular service; and

WHEREAS, granting such companies the power of eminent domain was a reasonable public policy under these circumstances, as it enabled companies to bring vital public services to customers located throughout their territories; and

WHEREAS, the new competitive era will result in companies vying for the same blocks of customers as monopolistic service territories are dismantled; and

WHEREAS, the telecommunications industry has experienced rapid expansion of new companies receiving certification by the State Corporation Commission to provide local telephone services; and

WHEREAS, no legal grounds exist for the State Corporation Commission to place any limit on the number of such companies that may be formed; and

WHEREAS, the proliferation of new public service companies could result in private property being encumbered, against the will of the owner, by numerous easements of competing companies seeking routes for fiber optic lines, cables, and power lines; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be established to study the power of eminent domain granted to companies furnishing utility services.

The joint subcommittee shall be composed of nine members as follows: five members of the House of Delegates, to be appointed by the Speaker; and four members of the Senate, to be appointed by the Senate Committee on Privileges and Elections.

In conducting its study, the joint subcommittee shall examine (i) whether or not public policy still requires that public service companies be allowed to continue using the power of eminent domain to the same extent permitted in the past; (ii) whether suitable alternatives, such as increasing the use of existing poles and facilities, may exist; and (iii) the feasibility of placing authority at the appropriate level of government to offer better protection to the affected landowners from unnecessary or ill-advised condemnations.

The direct costs of this study shall not exceed \$ 4,050.

The Division of Legislative Services shall provide staff support for the study. Technical assistance shall be provided by the State Corporation Commission and the Office of the Attorney General. All other agencies of the Commonwealth shall provide assistance to the joint subcommittee, upon request.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1999 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

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