

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 531

An Act to amend and reenact §§ 25-233 and 56-49 of the Code of Virginia, relating to public service corporations and electric authorities; eminent domain.

[H 1881]

Approved March 27, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 25-233 and 56-49 of the Code of Virginia are amended and reenacted as follows:

§ 25-233. Condemnation of property of corporation possessing power of eminent domain.

No corporation or authority created under the provisions of Chapter 54 (§ 15.2-5400 et seq.) of Title 15.2 shall *file a petition to* take by condemnation proceedings any property belonging to any other corporation possessing the power of eminent domain, unless, after *notice to all parties in interest and an opportunity for a hearing* ~~all parties in interest~~, the State Corporation Commission shall certify that a public necessity or that an essential public convenience shall so require, and shall give its permission thereto; and in no event shall one corporation take by condemnation proceedings any property owned by and essential to the purposes of another corporation possessing the power of eminent domain. If the State Corporation Commission gives its permission to a condemnation, the Commission shall establish for use in any condemnation proceeding whether any payment for stranded investment is appropriate and, if so, the amount of such payment and any conditions thereof.

§ 56-49. Powers.

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 § 25-232.1.

(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 1.1 (§ 25-46.1 et seq.) of Title 25 and shall be subject to the provisions of § 25-233. However, the corporation shall not take by condemnation proceedings a strip of land for a right-of-way within sixty 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 §§ 25-46.9, 25-46.10 and 25-46.12, and a hearing thereon, that it would otherwise be impractical, without unreasonable expense, to construct the proposed works of the corporation at another location; ~~or~~ (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) allotted territory for public utility service by the State Corporation Commission or (ii) issued a certificate to provide public utility service shall acquire lands or interests therein by eminent domain as provided in this subdivision for ~~electric~~ 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 Title 56.

And provided, further, that notwithstanding the foregoing nor 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.