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HOUSE BILL NO. 1427

Offered January 9, 2013

Prefiled December 20, 2012

A *BILL to amend and reenact § 15.2-7207 of the Code of Virginia, relating to powers of Bristol Virginia Utilities Authority.*

Patron—O'Quinn

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:**1. That § 15.2-7207 of the Code of Virginia is amended and reenacted as follows:****§ 15.2-7207. Powers generally.**

The Authority is hereby granted all powers necessary or appropriate to carry out the purposes of this chapter in order to provide electric, water, sewer, and telecommunication and related services, including without limitation, cable television internet, and all other services that might be lawfully rendered by use of the Authority's fiber optic system, subject to all existing limitations and restrictions thereon. Such powers include, without limitation, except as set forth hereafter, the following:

1. To adopt bylaws for the regulation of its affairs and the conduct of its business;
2. To sue and be sued in the Authority's name;
3. To have perpetual succession;
4. To adopt a corporate seal and alter the same at its pleasure;
5. To maintain offices at such places as it may designate;
6. To appoint, employ, or engage such officers, employees, architects, engineers, attorneys, accountants, financial advisors, investment bankers, and other advisors, consultants, and agents as may be necessary or appropriate, and to fix their duties and compensation;
7. To establish personnel rules;
8. To make, assume, and enter into all contracts, leases, and arrangements necessary or incidental to the exercise of its powers, including contracts for the management or operation of all or any part of its facilities;
9. To borrow money, as hereinafter provided, and to borrow money for the purpose of meeting casual deficits in its revenues;
10. To provide electric, water, sewer, and telecommunication and related services, including without limitation, cable television, internet, and all other services that might be lawfully rendered by use of the Authority's fiber optic system as set forth in § 15.2-7208 subject to all existing restrictions and limitations thereon;
11. To determine fees, rates, and charges for the services and products it provides, subject only to such state or federal regulation as the Tennessee Valley Authority (TVA) or other cognizant state or federal agency may impose by order, rulemaking, contract or otherwise, including, without limitation, electric, water and sewer, and internet and cable television services, including all other services that might be rendered by use of its fiber optic system, furnished by the Authority. MLEC telephone service, including rates, is regulated by the Commission. All rate increases for services other than electric, which are set by the TVA, and telephone, which are set by the Commission and applicable law, shall require a favorable vote at two meetings, one of which must be a regular meeting of the BVU Authority Board. The Authority may assess such rates and charges for such services or products in such manner mutatis mutandis as BVU or the City has the authority to do so at present subject to the same restrictions and limitations thereon;
12. To adopt, amend, and repeal rules and regulations for the use, maintenance, and operation of its facilities and utility services and governing the conduct of persons and organizations using its facilities or obtaining its utility services and to enforce such rules and regulations and all other rules, regulations, ordinances, and statutes relating to its facilities and services, as authorized by the enacting body of such rules, regulations, ordinances, and statutes. The civil penalty for violation of any such rules and regulations shall be set forth in the rules and may be enforced by the Authority by direct action in terminating services and by the imposition of monetary penalties to be billed to the customer. The Authority may request the governing body of each locality in which it does business to impose by ordinance such penal liability for violation of such rules and regulations as such body deems appropriate;
13. To apply for and accept gifts or grants of money or gifts, grants or loans of other property or other financial assistance from the United States of America and agencies and instrumentalities thereof,

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59 this Commonwealth and political subdivisions, agencies and instrumentalities thereof, or any other
60 person or entity, for or in aid of the construction, acquisition, ownership, operation, maintenance, or
61 repair of its infrastructure or for the payment of principal of any indebtedness of the Authority, interest
62 thereon, or other cost incident thereto, or for the operation of any of its services, or for any other
63 purpose of the Authority, and to this end the Authority shall have the power to render such services,
64 comply with such conditions, and execute such agreements and legal instruments as may be necessary,
65 convenient or desirable or imposed as a condition to such financial aid;

66 14. Subject to subdivision 16 and all existing limitations and restrictions thereon, to acquire,
67 establish, construct, enlarge, improve, maintain, equip, operate, and regulate electric, water, sewer,
68 telecommunications, internet and cable television services, including all other services that might be
69 rendered by use of its fiber optic system, and other infrastructure and facilities that are owned or
70 managed by the Authority within the territorial areas in which it operates or provides services;

71 15. To construct, install, maintain, and operate facilities and infrastructure for managing its utility,
72 consulting and operational management services. The Authority shall have the power and duty to
73 manage and operate the electric, public lighting, water, sewerage, telecommunications, internet and cable
74 television services, including all other services that might be rendered by use of its fiber optic system
75 directly subject to all existing limitations and restrictions thereon, or it may subcontract such functions.
76 The Authority shall construct, maintain, and operate all facilities necessary thereto; shall sell and
77 distribute to the public electric power, light, water, sewer, telecommunications, internet and cable
78 television, and other services as they now exist or may exist in the future subject to all existing
79 limitations and restrictions thereon; and shall collect the rates and charges provided for all such services;

80 16. To own, purchase, lease, obtain options upon, acquire by gift, grant, or bequest or otherwise
81 acquire any property, real or personal, or any interest therein, and in connection therewith to assume or
82 take subject to any indebtedness secured by such property and dispose of any or all such properties as is
83 deemed appropriate by the Board. The Authority shall have the power of eminent domain, *including the*
84 *authority to institute and prosecute any eminent domain proceedings in accordance with the provisions*
85 *of Chapter 3 (§ 25.1-300 et seq.) of Title 25.1*, to acquire property and easements as needed for its
86 various utility services within the areas it provides or can provide such services. The power of eminent
87 domain shall not include the power to acquire existing telecommunications, internet or cable facilities,
88 which is expressly prohibited, and the Authority shall not accept or receive any telecommunications,
89 internet or cable facilities from an entity that acquired such facilities by use of eminent domain;

90 17. To purchase and maintain insurance or provide indemnification on behalf of any person who is
91 or was a director, officer, employee, or agent of the Authority and on behalf of the Authority itself
92 against any liability asserted against it or him or incurred by it or him in any such capacity or arising
93 out of his status as such;

94 18. To establish and charge such fees as it deems appropriate for attachment to or inclusion in the
95 Authority's infrastructure, including but not limited to its poles, conduits, and collocation sites, subject to
96 all existing limitations and restrictions thereon;

97 19. To fund economic development projects and, in advance of economic development projects, to
98 enter into contracts, to borrow money and to do all other such acts as will allow it to encourage and
99 support economic development; and

100 20. To have police powers on all of the properties of the Authority within the Commonwealth,
101 exercised through appointment of an armed conservator of the peace. The President of the Authority
102 may apply to the circuit court for any locality in which the Authority has property for the appointment
103 of one or more special conservators of the peace under procedures specified by Chapter 2 (§ 19.2-12 et
104 seq.) of Title 19.2 of the Code of Virginia or any successor provisions. Any such special conservator of
105 the peace shall have, within the lands and facilities controlled by the Authority, the powers, functions,
106 duties, responsibilities, and authority of any other armed conservator of the peace. Nothing in this
107 section shall be construed to prevent the conservator of the peace currently serving Bristol Virginia
108 Utilities from continuing as an armed special conservator of the peace for the Authority during the
109 remainder of his term, if not removed for cause.