WEST VIRGINIA CODE: §24D-1-9

§24D-1-9. Cable system installation, construction, operation, removal, general provisions.

(a) A cable franchise shall be construed to authorize the construction or operation of a cable system: (i) Over public rights-of-way; and (ii) through easements, which are within the area to be served by the cable system and which have been dedicated for compatible uses.

(b) The technical specifications, general routes of the distribution system and the schedule for construction of the cable system are subject to the approval of the franchising authority.

(c) In installing, operating and maintaining facilities, the cable operator shall avoid all unnecessary damage and injury to any trees, structures and improvements in and along the routes authorized by the franchising authority.

(d) The cable operator shall indemnify and hold the state, county and municipality harmless at all times from any and all claims for injury and damage to persons or property, both real and personal, caused by the installation, operation or maintenance of its cable system, notwithstanding any negligence on the part of the state, county and/or municipality, their employees or agents. Upon receipt of notice in writing from the state, county and/or municipality, the cable operator shall, at its own expense, defend any action or proceeding against the state, county and/or municipality in which it is claimed that personal injury or property damage was caused by activities of the cable operator in the installation, operation or maintenance of its cable system.

(e) The cable operator shall provide a cable drop and basic cable service at no cost to any school or institution of higher education within its service area if service is actually being delivered within a reasonable distance from the school or institution of higher education which may request service.

(f) The cable operator shall be required to designate at least ten percent but not more than three of all of its channels for public, educational or governmental use.

(g) Upon termination of the period of the cable permit or of any renewal thereof, by passage of time or otherwise, the cable operator shall remove its facilities from the highways and other public places in, on, over, under or along which they are installed if so ordered by the franchising authority and shall restore the areas to their original or other acceptable condition or otherwise dispose of its facilities. If removal is not completed within six months of the termination, any property not removed shall be deemed to have been abandoned and the cable operator shall be liable for the cost of its removal.

(h) The use of public highways and other public places shall be subject to:

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(l) All applicable state statutes, municipal ordinances and all applicable rules and orders of the commission governing the construction, maintenance and removal of overhead and underground facilities of public utilities;

(2) For county highways, all applicable rules adopted by the governing body of the county in which the county highways are situated; and

(3) For state or federal-aid highways, all public welfare rules adopted by the secretary of the Department of Transportation.

(i) In the use of easements dedicated for compatible uses, the cable operator shall ensure:

(1) That the safety, functioning and appearance of the property and the convenience and safety of other persons is not adversely affected by the installation or construction of facilities necessary for a cable system;

(2) That the cost of the installation, construction, operation or removal of facilities is borne by the cable operator or subscribers, or a combination of both; and

(3) That the owner of the property is justly compensated by the cable operator for any damages caused by the installation, construction, operation or removal of facilities by the cable operator.

(4) An "easement dedicated for compatible uses" is a public or private easement for electric, gas, telephone or other utility transmission.

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