WEST VIRGINIA CODE: §24D-2-7

§24D-2-7. Notice of installation.

(a) Every cable operator proposing to install cable television service or facilities upon the property of a landlord shall serve upon said landlord and tenant, or an authorized agent, written notice of intent thereof at least fifteen days prior to the commencement of such installation. Verbal notice to the tenant shall be legally sufficient if the date and time of entry is communicated to the tenant by either the landlord or cable operator at least twenty-four hours prior to entry.

(b) The commission shall prescribe the procedure for service of such notice, and the form and content of such notice, which shall include, but need not be limited to:

(1) The name and address of the cable operator;

(2) The name and address of the landlord;

(3) The approximate date of the installation; and

(4) A citation to this act.

(c) Where the installation of cable service or facilities is not effected pursuant to a notice served in accordance with this section, for whatever reason including denial of entry by the landlord, the cable operator may file with the board a petition, verified by an authorized person from the cable operator, setting forth:

(1) Proof of service of a notice of intent to install cable television service upon the landlord;

(2) The specific location of the real property;

(3) The resident address of the landlord, if known;

(4) A description of the facilities and equipment to be installed upon the property, including the type and method of installation and the anticipated costs thereof;

(5) The name of the individual or officer responsible for the actual installation;

(6) A statement that the cable operator shall indemnify the landlord for any damage caused in connection with the installation, including proof of insurance or other evidence of ability to indemnify the landlord;

(7) A statement that the installation shall be conducted without prejudice to the rights of the landlord to just compensation in accordance with section eight of this article;

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(8) A summary of efforts by the cable operator to effect entry of the property for the installation; and

(9) A statement that the landlord is afforded the opportunity to answer the petition within ten days from the receipt thereof, which answer must be responsive to the petition and may set forth any additional matter not contained in the petition.

If no answer is filed within the time permitted, the commission shall grant the petitioning cable operator an order of entry and installation, which order constitutes a ruling that the petitioning cable operator has complied with the requirements of this article. If the landlord files a written answer to the petition, the cable operator shall have ten days within which to reply to the answer. The commission may grant or deny the petition, schedule an administrative hearing on any factual issues presented thereby or direct such other procedures as may be consistent with the installation of cable television service or facilities in accordance with this article. The only basis upon which the commission may deny a petition by the cable operator is that the cable operator has not complied with the requirements of this article.

Within thirty days of the date of grant or denial of the petition, or issuance of any other order by the commission following a hearing or other procedure, the cable operator or landlord may appeal such grant or denial or order of the commission to the circuit court of Kanawha County. Any order issued by the commission pursuant to this section may be enforced by an action seeking injunctive or mandamus relief in circuit court where the property is located.

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