WEST VIRGINIA CODE: §24D-2-8

§24D-2-8. Application for just compensation.

(a) If the landlord and cable operator have not reached agreement on the amount of just compensation, a landlord may file with the commission an application for just compensation within four months following the service by the cable operator of the notice described in section eight of this article, or within four months following the completion of the installation of the cable television facilities, whichever is later.

(b) An application for just compensation shall set forth specific facts relevant to the determination of just compensation. Such facts should include, but need not be limited to, a showing of:

(1) The location and amount of space occupied by the installation;

(2) The previous use of such space;

(3) The value of the applicant's property before the installation of cable television facilities and the value of the applicant's property subsequent to the installation of cable television facilities; and

(4) The method or methods used to determine such values. The commission may, upon good cause shown, permit the filing of supplemental information at any time prior to final determination by the commission.

(c) A copy of the application filed by the landlord for just compensation shall be served upon the cable operator making the installation and upon either the mayor or county commission of the municipality or county, respectively, in which the real property is located when the municipality or county is the franchise authority.

(d) Responses to the application, if any, shall be served on all parties and on the commission within twenty days from the service of the application.

(e)(1) The commission shall within sixty days of the receipt of the application, make a preliminary finding of the amount of just compensation for the installation of cable television facilities.

(2) Either party may, within twenty days from the release date of the preliminary finding by the commission setting the amount of just compensation, file a written request for a hearing. Upon timely receipt of such request, the commission shall conduct a hearing on the issue of compensation.

(3) In determining just compensation, the commission may consider evidence introduced including, but not limited to, the following:

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(A) Evidence that a landlord has a specific alternative use for the space occupied or to be occupied by cable television facilities, the loss of which will result in a monetary loss to the owner;

(B) Evidence that installation of cable facilities upon such multiple dwelling premises will otherwise substantially interfere with the use and occupancy of such premises to the extent which causes a decrease in the resale or rental value; or

(C) Evidence of increase in the value of the property occurring by reason of the installation of the cable television facilities.

(4) For purposes of this article, the commission shall presume that a landlord has received just compensation from a cable operator for the installation within a multiple dwelling premises if the landlord receives compensation in the amount of $1 for each dwelling unit within the multiple dwelling premises or $100 for the entire multiple dwelling premises, whichever amount is more.

(5) If, after the filing of an application, the cable operator and the applicant agree upon the amount of just compensation, a hearing shall not be held on the issue.

(6) Within thirty days of the date of the notice of the decision of the commission, either party may appeal the decision of the commission in the circuit court of Kanawha County regarding the amount awarded as compensation.

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