WEST VIRGINIA CODE: §31G-4-1

§31G-4-1. Definitions.

As used in this article, the following terms are defined as follows:

(1) “Applicable codes” means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization, including, but not limited to, the National Electrical Safety Code, or any local amendments to those codes: *Provided*, That notwithstanding any other provisions of said applicable codes, the Code of West Virginia, or the West Virginia Code of State Rules, variances for the installation and maintenance of broadband service infrastructure on utility poles shall be permitted if these are agreed upon between infrastructure owners.

(2) “Attacher” means any person, corporation, or other entity, or the agents or contractors of such seeking to permanently or temporarily fasten or affix any type of equipment, antenna, line, or facility of any kind to a utility pole in the right of way or its adjacent ground space.

(3) “Attachment application” means the application made by an attacher to a pole owner for attachment of equipment, antenna, line, or facility of any kind to a utility pole. It shall include:

(A) Proof of insurance; or

(B) An indemnification agreement prepared by the pole owner.

(4) “Broadband service” means the same as that term is defined in §31G-1-2 of this code.

(5) “Commission” means the Public Service Commission as set forth in §24-1-1 *et seq*. of this code.

(6) “Make-ready-costs” means the costs incurred by an attacher associated with the transfer of the facilities, antenna, lines, or equipment of a pre-existing third-party user, undertaken by an attacher to enable attachment to the utility pole or similar structure. Make-Ready Costs that are to be paid by an attacher include, without limitation, all costs and expenses to relocate or alter the attachments or facilities of any pre-existing third-party user as may be necessary to accommodate an attacher’s attachment.

(7) “Telecommunications carrier” means either:

(A) A telecommunication carrier as determined by the Department of Economic Development; or

(B) A telecommunication carrier that meets the definition of such with respect to the Federal Communication Commission, as set forth in 47 U.S.C. § 153.

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(8) “Pole owner” means a person, corporation, or entity having ownership of a pole or similar structure in the right of way to which utilities, including without limitation, electric and communications facilities, are located or may be located whether such ownership is in fee simple or by franchise.

(9) “Pre-existing third-party user” means the owner of any currently operating facilities, antenna, lines, or equipment on a pole or its adjacent ground space in the right of way.

(10) “Utility facility” means the same as that term is defined in §17-2A-17a of this code.

(11) “Utility poles” or “poles” means poles that are used to support electrical, cable television, telephone, and broadband service.

(12) “Wireless access” means access to and use of a right-of-way for the purpose of constructing, installing, maintaining, using, or operating telecommunications facilities for wireless communication purposes.

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