

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
DIVISION OF PUBLIC UTILITY REGULATION

Guidelines for Pole Attachment Petitions
Relative to § 56-466.1 of the Code of Virginia

July 1, 2024

INTRODUCTION

The purpose of this document ("Guidelines") is to identify the information that should be included in pole attachment dispute petitions ("Petitions") filed at the State Corporation Commission ("SCC" or "Commission"), relative to the connection of broadband facilities to utility poles of electric cooperatives that are under the jurisdiction of the Commission pursuant to [§ 56-466.1](#) of the Code of Virginia ("Code"). All Petitions shall comply with the Commission's Rules of Practice and Procedure ([5VAC5-20-10 et seq](#)) ("Rules of Practice"). An entity seeking Commission resolution of disputes pursuant to Code [§ 56-466.1](#) is referred to herein as "Petitioner."

Each Petition should be filed under 5VAC5-20-100 B of the Commission's Rules of Practice and provide the information as described in these Guidelines, to allow the Commission to expeditiously review and rule on the Petition within the applicable resolution timelines specified by Code [§ 56-466.1](#). To the extent any information requested in these Guidelines is not currently available or is not applicable, the Petitioner should clearly note and explain in the appropriate location in the Petition.

These Guidelines are effective for Petitions filed on and after July 1, 2024.

GUIDELINES

The Commission is required to adjudicate disputes regarding joint-use utility poles pursuant to Code § 56-466.1. On or before January 31 of each calendar year, or any time the contact information changes, electric cooperative owners of joint-use utility poles should submit to the Commission's Division of Public Utility Regulation Staff ("PUR Staff") points of contact for pole attachment dispute resolution issues. The contact information must include the name, title, address, business phone number, and business email address of the point of contact.

I. Prior to Filing a Petition

A. The Petitioner may optionally seek resolution of its complaint through the Commission's informal complaint resolution process under 5VAC5-20-70 of the Commission's Rules of Practice. More information on informal complaints is available on the Commission website: <https://scc.virginia.gov/pages/Utility-Complaints>. If an informal complaint is not resolved satisfactorily, then either party to the dispute retains the ability to file a formal Petition with the Commission.

B. Prior to filing a formal Petition pursuant to Code § 56-466.1, the Petitioner should provide a written notification to the entity with whom there is a dispute ("Defendant"), stating the nature of the dispute and that it is planning to file a Petition with the Commission.

II. Filing a Petition

A. Unless filed electronically, an original and 15 copies of the Petition must be filed with the Clerk of the Commission pursuant to 5VAC5-20-150 of the Commission's Rules of Practice.

1. A Petitioner should send a copy of the Petition to the PUR Division at the following address PoleAttachments@scc.virginia.gov at the same time it is filed with the Clerk of the Commission.
2. Pursuant to 5VAC5-20-170 of the Commission's Rules of Practice, any confidential information filed with the Clerk of the Commission in connection with the Petition should be under seal and accompanied by a Motion for Protective Order. Copies of the confidential information should also be provided under seal to the Commission's Office of General Counsel.
3. Any amendment or supplement to the Petition should be filed in compliance with this section and must be in accordance with the Commission's Rules of Practice.

B. A copy of the public version of the Petition shall be sent to the entity with whom there is a dispute when the Petition is filed with the Commission.

III. Contents of Filing

Petitions under Code § 56-466.1 shall be filed in accordance with 5VAC5-20-100 B of the Commission's Rules of Practice, and in addition to those provisions, the Petition should include the following information:

- A. A certificate showing service of the Petition upon the Defendant.
- B. The identity of the parties.
- C. A description of the steps taken by the parties to resolve the dispute prior to filing the Petition.
- D. A statement of the action sought and the legal basis for the Commission's jurisdiction to take the action sought.
- E. A statement of the facts, proof of which would warrant the action sought.
- F. A statement of the harm that is occurring, or that could occur due to the situation, including, but not limited to, the financial costs.
- G. Petitioner's representation that the dispute that the Commission is being petitioned to resolve involves either: (i) pole access, including the allocation of rearrangement costs, with an initial 90-day deadline for Commission action; or (ii) any other matter arising under Code § 56-466.1, to which an initial 120-day statutory deadline for Commission action applies.
- H. Petitioner's representation of whether the resolution of the dispute by the Commission will require an evidentiary hearing, witness testimony, oral arguments, and/or post-hearing briefing.
- I. Where the Petitioner requests that the Commission convene an evidentiary hearing, the Petition should be accompanied by the prefiled testimony, supporting documents (including exhibits, schedules, spreadsheets, etc.) by which the Petitioner intends to make its case.

IV. Staff Response to Petition

In response to the filing of a Petition, PUR Staff will file a Memorandum of Completeness ("MOC") or a Memorandum of Incompleteness ("MOIC") in accordance with 5VAC5-20-160 in the case docket. If a MOIC is filed, the Petitioner will be asked to provide additional information

within 10 business days. Petitions found to require supplementation shall be complete upon the date of filing of the last item identified in the Staff memorandum.

V. Defendant's Answer to Petition

A. A Defendant served a Petition arising from a dispute governed by Code § 56-466.1 shall file an answer or other responsive pleading in accordance with 5VAC5-20-100. The Defendant's filing shall be made within 21 calendar days of service of the Petition unless a different filing date is established by the Commission via a procedural order.

B. Defendant's filing should also include:

1. Defendant's representation that the dispute that the Commission is being petitioned to resolve involves either: (i) pole access, including the allocation of rearrangement costs, with an initial 90-day deadline for Commission action; or (ii) any other matter arising under Code § 56-466.1, to which an initial 120-day statutory deadline for Commission action applies.
2. Defendant's representation of whether the resolution of the dispute by the Commission will require an evidentiary hearing, witness testimony, oral arguments, and/or post-hearing briefing.
3. Where the Defendant requests that the Commission convene an evidentiary hearing, the Defendant's filing should be accompanied by the prefiled testimony, supporting documents (including exhibits, schedules, spreadsheets, etc.) by which the Defendant intends to make its case.