

Testimony of
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On Behalf of
Evergy
Kansas Electric Cooperatives
Kansas Municipal Utilities
Liberty Utilities
NextEra

Senate Committee on Judiciary
March 18, 2025

Informational briefing on: Government agencies, public utilities and other entities when exercising the power of eminent domain for recreational trails and park and recreational facilities.

Madam Chair Warren and Members of the Committee:

We appear before the committee today to share information in regard to the utility industry's engagement with Kansas landowners when procuring rights-of-way for vital electrical infrastructure.

It is the desire of Evergy and other utilities to only exercise the use of eminent domain as a method of last resort when acquiring real estate interests. Standard practice is for our employees and contractors to inform a property owner at the outset that the use of eminent domain is the method utilized to settle valid disagreements concerning compensations and it is only utilized when efforts to acquire the real estate interests sought by negotiations have failed, or when attempts to obtain adequate title to the real estate interests have failed.

If and when eminent domain must be exercised, a property owner is entitled to just compensation. When a property owner and a public utility cannot reach agreement on a price, a three-member panel appraiser is given the task to determine fair market value of the easement. Neither party has an advantage with this process and both parties are allowed to provide evidence as to what they believe to be reasonable and appropriate. In essence, this three-person jury, made up of appraisers from within the county where the land is located, is fair to both parties and has worked well for more than 60 years with a few minor changes to condemnation law since that time. Current law allows a judge to award attorney fees when deemed appropriate.

As the issue of condemnation has brought more attention from legislators over the past few years, public utilities have worked more diligently to gain agreement from landowners outside the condemnation process. Of those times that eminent domain is used, a high percentage of those instances are only because attempts to obtain adequate title to real estate interests have failed.

(more on back)

Recently, the Kansas Corporation Commission issued an order in a general investigation docket considering principles and priorities for the routing of transmission lines (Line Siting Investigation). The order in the Line Siting Investigation adopted a Guiding Document for future transmission siting proceedings.

Key points of the Line Siting Investigation order include the following:

- *An applicant for a proposed transmission line project shall utilize the Guiding Document when obtaining a routing study, and adhere to the priorities, principles, Standard Routing Criteria and Weights contained therein; provided however, that an applicant may request a deviation by showing the reasonableness of any such deviation, as ultimately determined by the Commission.*
- *An applicant shall include a routing study addressing the priorities, principles, and Standard Routing Criteria and Weights contained in the Guidance Document with any line siting application submitted pursuant to K.S.A. 66-1,178. An applicant shall also submit proposed Agricultural Impact Mitigation Protocols, Landowner Protocols, and Oil and gas Industry Protocols with such application.*

While the adoption of a Guiding Document does not directly affect easement valuations or eliminate condemnation proceedings, the establishment of these requirements for future transmission projects in Kansas should enhance the exchange of information between the parties and ensure projects are sited in a manner that considers all affected parties, which will hopefully reduce the use of condemnation authority for the securement of an easement by a public utility.

From the Order:

“The Commission believes the competitive solicitation process will be improved, with potentially better outcomes identified, if input from relevant siting authorities is incorporated early in the process.”

The retail electric utilities and transmission-only utilities in Kansas agree with the KCC’s assessment.

Docket No. 24-GIME-102-GIE

In the Matter of the Investigation into the Principles and Priorities to be Established for Evaluating the Reasonableness of the Location of a Proposed Transmission Line in Future Line Siting Proceedings.

ORDER ADOPTING GUIDELINES FOR TRANSMISSION LINE SITING CRITERIA AND PRIORITIES

[24-102_Order_\(Precidential\).pdf, filename=24-102_Order_\(Precidential\).pdf](#)