

INFO

EASEMENT INFORMATION SHEET/FAQ



UNDERSTANDING EASEMENTS AND RIGHTS-OF-WAY IN MINNESOTA

When new transmission lines are built, the terms ‘easement’ and ‘right-of-way’ are often used to help describe where the infrastructure is located.

Although the terms are often used interchangeably, they are distinct concepts.

What is an easement?

An easement is a permanent right authorizing the use of land or property for a particular purpose. The easement is legally recorded and added to the property records. In the case of transmission lines, a utility acquires certain rights to build and maintain a transmission line. Landowners are paid a fair price for the easement and can continue to use the land for most purposes, although some restrictions are included in the agreement. An easement is a legal document that must be signed by the landowner before the utility can proceed with construction or maintenance activities.

What is a right-of-way?

A right-of-way is the actual land area acquired with an easement for a specific purpose, such as a transmission line, roadway or other infrastructure.

What is the difference between an easement and a right-of-way?

An easement is a documented land right agreement, and a right-of-way is the physical land upon which the facilities (transmission line, roadway, etc.) are located.

How long does an easement last?

Once an easement is signed, it becomes part of the property record. The utility and current and future landowners are bound by the terms of the easement agreement. The utility can, at some point, choose to release the easement rights if it removes the transmission line and abandons the right-of-way.

How are landowners paid for an easement?

Landowners are typically given a one-time payment based on fair market value for easement rights to their land, traditionally based on the appraised land value. Landowners can also elect to spread the payment out over time.

Landowners are also eligible for reasonable compensation for property damage that may occur when the transmission line is constructed and during future repair and maintenance. Those issues are addressed in easement documents.

Who pays property taxes for the right-of-way on which the transmission line is constructed?

The landowner continues to own the land and so continues to be responsible for property taxes on the property, although Minnesota may provide a property tax credit in proportion to the length of the transmission line that crosses the landowner’s property.

What easement rights will be needed for the construction of a power line?

Utilities will require easements that allow for surveying and pre-construction activities, such as soil boring, construction, operation and maintenance of a transmission line across a defined right-of-way located on the landowner’s property. These easements may include the right to clear, trim and remove vegetation and trees from within the right-of-way, as well as tall and dangerously leaning trees adjacent to the right-of-way that may threaten the line if they fall.

How large is the area covered by an easement or a right-of-way?

The voltage and the type of transmission structure being built determines the size of the right-of-way. For 345 kV lines, the typical right-of-way is up to 150 feet wide.

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What activities are allowed within the easement?

Land within the right-of-way may continue to be used for any purpose that does not interfere with the construction, operation, or maintenance of the transmission line. In agricultural areas, this generally includes crop production, pasture, and other typical farming activities, except in the immediate area surrounding the transmission structures. In areas planned for development, streets, lawn extensions, underground utilities, curbs, gutters, and similar features may cross the right-of-way with prior written permission from the utility. Landowners can also typically install underground utilities or drain tile within the easement, but coordination with the utility is essential to ensure compatibility and avoid conflicts. Xcel Energy encourages landowners to discuss any planned activities within or near the easement after the line is constructed to ensure safe and appropriate use of the property.

How close will the transmission line be to houses?

Xcel Energy carefully considers the locations of homes during route development and seeks to design a route that minimizes impacts to residences. Due to engineering requirements, no residence will be allowed within the transmission line easement area.

What are the main building and plant restrictions in the easement?

Conditions will vary, but the primary building and planting restrictions within the right-of-way are in place to ensure that a utility has the necessary clearance for operation and maintenance, and to comply with the National Electric Safety Code. Restrictions within the right-of-way area prohibit constructing buildings and structures, storing flammable materials and planting tall-growing trees.

Why doesn't the utility just buy the land instead of negotiating an easement?

Utilities' main interest is simply acquiring the amount of land necessary to build and operate a transmission line and not acquiring more land than is necessary for that purpose. Landowners generally prefer to retain ownership of the property so they can maintain better control over its use within the easement restrictions. Often, retaining ownership allows the landowner continued use of the property for things such as agricultural operations, yard extensions or open space. Most adjacent uses pose no threat to the line and do not create a public hazard.

What happens if the landowner and utility cannot agree on the easement or payment?

If an agreement cannot be reached, a utility may pursue a state-governed process called condemnation, under which a judge and a panel of impartial individuals decide whether the easement is needed and its value. The condemnation process, also often called eminent domain, varies from state to state. In Minnesota, the process is governed under Minnesota Statute 117, which establishes strict procedures for determining the amount a landowner should be paid by a utility for acquiring a right for construction and maintenance of a transmission line.

What is "Buy the Farm" statute?

In some cases, such as such as Minnesota's "Buy the Farm" law (Minn. Stat. § 216I.21, subd. 4), a landowner may request the utility purchase the entire property rather than an easement. The Buy the Farm law allows a landowner whose property will be crossed by an easement, in certain circumstances, to elect for the utility to buy their entire property (or some portion of it) rather than grant the utility an easement. Landowners who make a Buy the Farm election may also be entitled to relocation assistance, which can help ease the burden of moving from a home, farm, or business. Only certain types of property qualify for this process.

** This fact sheet is not a legal document. It is meant to provide general information about easements and rights-of-way. The utilities encourage landowners with more specific questions on easements to consult with legal professionals who can provide detailed answers and information about the process.*

