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SENATE BILL 235

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Phil A. Griego

FOR THE

ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS COMMITTEE

AN ACT

RELATING TO PUBLIC UTILITIES; REMOVING A REQUIREMENT FOR  
DETERMINATION OF RIGHT-OF-WAY WIDTH FOR ASSOCIATED FACILITIES;  
AMENDING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 62-1-4 NMSA 1978 (being Laws 1909,  
Chapter 141, Section 4, as amended) is amended to read:

"62-1-4. EMINENT DOMAIN--SURVEYS--ENTRY ON PROPERTY--  
CROSSING RIGHT OF WAY OF ANOTHER CORPORATION.--

A. Corporations organized pursuant to Section  
62-1-1 NMSA 1978 are authorized to enter upon any property  
belonging to the state or to persons, firms or corporations for  
the purpose of making surveys and from time to time to  
appropriate so much of such property not exceeding [~~a strip one  
hundred feet wide~~] seven acres in any one place as may be

underscored material = new  
[bracketed material] = delete

underscored material = new  
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1 necessary for their purpose. The corporations have the right  
2 of access to such property to construct and place their lines,  
3 pipes, poles, cables, conduits, towers, stations, fixtures,  
4 appliances and other structures and to repair them. If a  
5 corporation cannot agree with the owners as to a right of way  
6 or the compensation for a right of way, the corporation may  
7 proceed to obtain the right of way in the manner provided by  
8 law for condemnation of such property. Where it is necessary  
9 to cross the right of way of another corporation, the crossing  
10 shall be effected either by mutual agreement or in the manner  
11 now provided by law for the crossing of one railroad by another  
12 railroad; provided that the construction of any electric  
13 transmission lines crossing the right of way of a railroad  
14 shall comply with the minimum standards of the national  
15 electric safety code. When it is necessary for a corporation  
16 to construct any transmission line [~~and associated facilities~~]  
17 for the transmission of electrical power requiring a width for  
18 right of way of greater than one hundred feet, unless that  
19 width is agreed to by the parties, the applicant for the right  
20 of way shall apply to the [~~New Mexico public utility~~]  
21 commission as provided in Section 62-9-3.2 NMSA 1978 for a  
22 determination of the width necessary for the right of way for  
23 the transmission line.

24 B. For the purposes of this section, "corporation"  
25 means individuals, firms, partnerships, companies,

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1 municipalities, rural electric cooperatives organized under  
2 Laws 1937, Chapter 100 or the Rural Electric Cooperative Act,  
3 lessees, trustees or receivers appointed by any court. "

4 Section 2. Section 62-9-3.2 NMSA 1978 (being Laws 1980,  
5 Chapter 20, Section 18, as amended) is amended to read:

6 "62-9-3.2. APPLICATION FOR DETERMINATION OF RIGHT-OF-WAY  
7 WIDTH. --

8 A. Unless otherwise agreed to by the parties, [no]  
9 a person shall not begin the construction of any transmission  
10 line requiring a width for right-of-way of greater than one  
11 hundred feet without first obtaining from the commission a  
12 determination of the necessary right-of-way width to construct  
13 and maintain the transmission line. For the purposes of this  
14 subsection, "construction" does not include acquisition of  
15 rights of way, preparation of surveys or ordering of equipment.

16 B. For the purposes of this section, "transmission  
17 line" means any electric transmission line [~~and associated~~  
18 ~~facilities~~] requiring a width for right of way of greater than  
19 one hundred feet.

20 C. Application for the right-of-way width  
21 determination shall contain all information required by the  
22 commission to make its determination, be made in writing,  
23 setting forth the facts involved, and be filed with the  
24 commission.

25 D. The applicant shall cause notice of the time and

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1 place of hearing on the application for the right-of-way  
2 determination to be given to any owner of property proposed to  
3 be taken and, if applicable, to the person in actual occupancy  
4 of the property. Notice shall be given by mailing a copy by  
5 ordinary first class mail at least twenty days before the time  
6 set for hearing. Proof of the giving of notice shall be made  
7 on or before the hearing and filed in the proceeding.

8 E. The commission shall, after public hearing, act  
9 upon the application.

10 F. The commission shall issue its order granting or  
11 denying the application within six months from the date the  
12 application is filed with the commission. Failure to issue its  
13 order within six months is deemed to be approval of the  
14 application. "