

October 1, 2013

Fiscal impact to the State of New Mexico of proposed right of way for a state transmission highway:

- NM Department of Transportation approach to valuation of right of way
- Maximize value of right of way
- NM Department of Transportation using 1950s model for highway right of way
- Necessary for NM Department of Transportation to set right of way fee schedule in rule
- State Land Office leading in valuation models for right of way applications to determine fair market value

State Land Office Electric Line Easement/ Right – of – Way Price Schedule Base Cost Per Rod (16.5 linear foot)				
Geographic Location	ROW Width			
	Up to 20'	21' to 50'	51' to 100'	Over 100'
Urban 1	Fair Market Value	Fair Market Value	Fair Market Value	Fair Market Value
Urban 2	\$6.00	\$9.00	\$12.00	Fair Market Value
Rural 1	\$3.50	\$6.00	\$8.50	Fair Market Value
Rural 2	\$1.75	\$3.50	\$4.25	Fair Market Value

- State Land Office turnaround time for right of way applications is 4-6 weeks
- Ownership of right of way, federal or state?

Other outstanding policy issues include:

- FHWA and Tribal approvals
- FERC-PRC jurisdiction
- Coordinated/level playing field
- Timing/urgency
- Viability of interconnection at Farmington to western markets

§ 67-8-15. Declaration of policy
West's New Mexico Statutes Annotated (Approx. 2 pages)
Chapter 67. Highways
Article 8. Miscellaneous Provisions (Refs & Annos)

N. M. S. A. 1978, § 67-8-15

§ 67-8-15. Declaration of policy

Currentness

A. The construction of modern highways is necessary to promote public safety, facilitate the movement of present-day motor traffic, both interstate and intrastate in character, and to promote the national defense, and in the construction of such highways it is also in the public interest to provide for the orderly and economical relocation of utilities when made necessary by such highway improvements, including extensions thereof within urban areas, without occasioning utility service interruptions or unnecessary hazards to the health, safety and welfare of the traveling or utility consuming public.

B. Utilities have been authorized by statute for many years to locate their facilities within the boundaries of public roads and streets in this state; because utilities are subject to extensive regulation by state agencies and they are affected with the public interest in that, among other things:

- (1) the business and activities of utilities involve the rendition of essential public services to large numbers of the general public, and no cessation of utility service is permitted without authority of law;
- (2) the financing of utilities involves the investment of large sums of money, including capital obtained from many members of the general public;
- (3) the development and extension of utilities directly affects the development, growth and expansion of the general welfare, business and industry of this state; and
- (4) all persons in this state are actual or potential consumers of one or more utility services, and all consumers will be affected by the cost of relocation of their utilities as necessary to accommodate highway improvements.

Public highways are intended principally for public travel and transportation; but they are also intended for proper utility uses in serving the public, as authorized pursuant to the laws of this state, and such utility uses are for the benefit of the public served. Without making use of public ways utility lines could not reach or economically service the adjacent public, particularly in urban areas.

C. Federal-aid highways of the interstate system and other modern highway improvements serve the need of nonlocal and long distance traffic.

D. The burden of such utility relocations is a burden on the public in this state, whether initially borne by the state or the utility or in part by both, and it is, therefore, in the public interest that such burden be minimized to the extent that same can be done consistently with the principal purpose of such highways for vehicular movement of persons and property; therefore, it is the intent of the legislature to insure that the state's police power in requiring relocation of utilities shall be exercised in a reasonable manner.

E. Utility relocations necessitated by construction of public highways or improvements thereto are a public governmental function, properly a part of such construction and to the extent in this act provided such relocations shall be made at state expense; however, although made in obedience to the commission's orders in exercise of the police power under this act, relocations hereunder for which compensation is not provided by this act or otherwise by law are declared to be *damnum absque injuria* and no claim therefor shall be enforceable against the state. Utility relocations to which this act is applicable shall be made only in pursuance hereof.

NOTES OF DECISIONS (8)

In general
Common law
Injunctions
Mandamus
Nonbetterment costs
Validity of prior laws