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FISCAL IMPACT REPORT

ORIGINAL DATE 2/01/06

SPONSOR Griego LAST UPDATED _____ HB _____

SHORT TITLE Public Utility Right of Way Width Requirement SB 534

ANALYST Earnest

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY06	FY07		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 534 amends the Public Utility Act at Section 62-1-4 (eminent domain) and Section 62-9-3.2 (right-of-way width) to allow the condemnation of property less than 100 feet in width for transmission lines without submitting an application to the Public Regulation Commission for determination of the necessary width for lines or acreage for stations.

SIGNIFICANT ISSUES

AGO indicates that although transmission line right of way without PRC determination is limited to 100 feet or less, no numerical cap is placed on the acreage for stations. Under current law, in order to construct a transmission line and associated facilities on a right of way width in excess of 100 feet the utility is required to apply to the PRC for determination of the necessary width, unless the utility and the property owner agree to the width. There is no specific reference currently in § 62-1-4 to stations; they are regarded as "associated facilities."

ADMINISTRATIVE IMPLICATIONS

The legislation could result in the adjudication of fewer right of way cases before the PRC.

TECHNICAL ISSUES

The AGO notes the bill deletes the term “associated facilities” and uses the term “stations” but leaves it undefined. If the bill is enacted, arguably, there may be no provision authorizing appropriation of property needed for construction or maintenance of facilities not classified as either transmission lines or stations.

According to the PRC:

1. Section 1, paragraph A (page 1, line 25) and Section 2, paragraph B (page 3, line 19) contain apparently contradictory definitions of a transmission line. The language addition in Section 1, paragraph A (page 1, line 25) uses the term “transmission lines” associated with the phrase “not exceeding a strip one hundred feet wide”. Section 2, paragraph B (page 3, line 19), however, defines a “transmission line” as any electric transmission line requiring a width for right of way of greater than one hundred feet. (Emphasis added.)
2. In Section 1, paragraph A (page 1, line 25 and page 2, lines 1 and 2) the addition of, “...an area...sufficient for the physical and design requirements of stations”, leaves the area to be acquired to be determined by a utility. The only constraint is sufficiency for the station. In urban areas, acquisition of large area may be controversial or detrimental to the public interest.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Current law will continue to govern, and PRC determination of right of way widths in excess of 100 feet for both lines and associated facilities will be required unless the parties agree as to the width.

POSSIBLE QUESTIONS

Should a consistent definition of “transmission line” be added to Section 62-1-4 of the Public Utility Act?

Should additional conditions such as, “as approved by the commission” or “no more than one acre in urban areas and no more than 5 acres in rural areas, without prior approval of the commission” be added to the suggested changes?

Should the term “stations” be explicitly defined?

BE/mt