

## **New Eminent Domain Law Protects Farmers, Landowners when Pipelines and Power Lines are Proposed on their Property**

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Farmers and other landowners have new protections from eminent domain when utility corporations seek to condemn their property for power lines and pipelines. The 2010 Legislature overwhelmingly (124-7 in the House and 59-5 in the Senate) sided with farmers rather than corporate interests and eliminated exemptions for utilities from laws passed in 2006 to protect landowners from condemnation.

The new law, which applies to a condemnation proceeding for a pipeline or power line easement or fee title (Minn. Stat. §117.189 (2010)), provides the following protections:

- The utility must negotiate in good faith.
- The utility must obtain and show the landowner an appraisal before starting condemnation and tell the landowner that the utility will pay for the landowner to get an additional appraisal, up to the maximum amount.
- The maximum amount of appraisal fees that can be reimbursed was increased to \$3,000 for power line cases and \$1,500 for other condemnations.
- If the power line or pipeline destroys a business, the utility must pay for loss of a going concern.
- If a landowner is forced to relocate, minimum damages must be awarded so that the owner can purchase comparable property in the community.
- The utility cannot require the landowner to accept as part of the compensation any substitute or replacement property, or any portion of the condemned property.
- The utility must pay relocation benefits, up to a \$50,000 maximum.
- There is a penalty for “low ball” offers, since courts must award the landowner attorneys’ fees and costs if the value found in court is more than 40 percent above the utility’s last offer.

In addition, for the first time in Minnesota, the Public Utilities Commission ordered in the CapX2020 Brookings Project high voltage power line case (PUC Docket 08-1474) that utilities must inform landowners of their rights at the first contact for eminent domain. In an Order dated September 14, 2010, the Commission required as a permit condition for the high voltage power line that the utilities “distribute to relevant landowners information prepared by state agencies regarding landowner rights.”

Farmers and lawyers should know their rights under the new laws and should insist that any Minnesota permit for a power line or pipeline mandate notice to all affected landowners of their rights, so that these rights can be exercised to protect the value of homes and farms.

- *Paula Maccabee, Just Change Law Offices, successfully lobbied for passage of the eminent domain law and advocated at the Public Utilities Commission to provide landowners individual notice of their rights in any power line condemnation. Email: [pmaccabee@visi.com](mailto:pmaccabee@visi.com), url: [www.justchangelaw.com](http://www.justchangelaw.com)*