

Center to Grand Forks Project



Right of Way (ROW) and Easement Facts

What is a right of way?

The term right of way or ROW refers to the actual land area acquired for a specific purpose, such as a transmission line.

What is an easement?

An easement is the right authorizing a person or party to use the land or property of another person or party for a particular purpose. For the CGF Project, Minnkota acquires an easement on a specific right of way to build and maintain a transmission line. Landowners are paid fair market value for the easement and may continue to use the land under easement for most purposes, although some restrictions are included in the agreement. The easement implementation is the legal document that must be signed by the landowner before the utility can proceed.

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

The right of way is the physical land area where transmission lines and other facilities are located. An easement is a land right on that specific ROW.

How large is the right of way?

Typically, a 345 kV transmission line requires a 150 foot wide ROW. In some areas, Minnkota may request a larger ROW to facilitate construction.

How long does an easement last?

In the state of North Dakota, the duration of the easement must be specifically set out and cannot exceed ninety-nine years. Once the easement is signed by the landowner, it becomes part of the property record. The utility, the landowner that signed the easement, and all future owners of the easement property are bound to the terms of the signed easement agreement. The utility can choose to release the easement rights if the transmission line is removed and the utility abandons the right of way.

What is landowner compensation for an easement?

Compensation for an easement is based on several factors including the local market value of land, the calculated acreage required for the ROW, current land usage and an additional per pole payment for poles placed on crop land. A Project right of way agent will prepare a specific estimate for each landowner during the final route selection process.

Landowners have the option of receiving a single sum payment for the easement or receiving payment in annual installments of equal amounts including interest on the outstanding balance. The interest paid by the utility will be at a rate equal to the average rate paid during that year by the Bank of North Dakota on a certificate of deposit in an amount equal to the outstanding balance. The first annual installments shall be prorated. The installment option is paid out over a maximum period of five years and does not apply to any easement providing for compensation of less than five thousand dollars. In the event the landowner elects to receive the compensation in annual payments, the benefits unpaid at the time of a sale of the real estate to which the easement attaches shall accrue to the purchaser of the real estate subject to the

easement. The utility right of way agent shall inform the property owner of the owner's option to choose annual installments.

What if my property is damaged during construction?

Landowners are eligible for reasonable compensation for any property damage that occurs during the construction of the transmission line and in the future during repair and maintenance. This will also be described in the easement document.

Who pays property taxes for the right of way where the transmission line is constructed?

The landowner continues to pay property taxes on the right of way. Some North Dakota counties may make an adjustment to farmland value where transmission lines are constructed.

What type of work will be required on easements for the construction of the Project?

Several project components are completed within the ROW including surveying, construction, operation, and maintenance of a transmission line across a defined right of way located on the landowner's property. Easements include the right to clear, trim, or remove vegetation within the right of way. In addition, dangerously leaning trees located adjacent to the right of way that may fall and impact the transmission line may also be removed or trimmed.

Why an easement agreement instead of buying the land?

The utility is not interested in purchasing the land, but simply having the land rights to build and maintain a transmission line. Typically, the landowner prefers to retain ownership of the property in order to maintain control of the land use within the easement restrictions. The landowner may continue to use their property in many ways including agricultural operations, yard extensions, or open space. Most adjacent uses pose no threat to the transmission line and do not create a public hazard.

What happens when the landowner and utility cannot agree on the easement?

After a reasonable and diligent effort is made, if an agreement cannot be reached between the landowner and utility, the utility may pursue a legal process called "condemnation" to obtain an easement through the power granted to the utility called "eminent domain."

To be successful in court, the electric utility must establish its need for the new facility and that the route selection process was proper. If it does demonstrate these factors to the court's satisfaction, the utility may be granted the necessary land rights through the exercise of eminent domain and the utility must pay full compensation for the fair market value of the land rights acquired.

Activities allowed within the right of way:

- ▶ Any purpose that does not interfere with construction, operation, and maintenance of the transmission line
- ▶ Agricultural lands can be used for crop production and pasturelands
- ▶ Streets, lawn extensions, underground utilities, curbs and gutters may cross the right of way with written permission from the utility

Activities restricted within the rights of way:

- ▶ Buildings or structures
- ▶ Storage of flammable materials
- ▶ Tall trees that may interfere with the transmission line