

**§3136. Transmission and distribution utilities have eminent domain; approval**

**1. Land necessary for location of transmission lines carrying 5,000 volts.** Subject to approval by the commission under subsection 4, a transmission and distribution utility may take and hold by right of eminent domain lands and easements necessary for the proper location of its transmission lines that are designed to carry voltages of 5,000 volts or more and of necessary appurtenances, located within the territory in which the utility is authorized to do public utility business, in the same manner and under the same conditions as set forth in chapter 65.

[PL 2007, c. 148, §12 (AMD).]

**2. Right of eminent domain not applicable.** The right of eminent domain granted in subsection 1 does not apply to:

A. Lands or easements located within 300 feet of an inhabited dwelling; [PL 1987, c. 141, Pt. A, §6 (NEW).]

B. Lands or easements on or adjacent to any developed or undeveloped water power; [PL 1987, c. 141, Pt. A, §6 (NEW).]

C. Lands or easements so closely paralleling existing wire lines of other utilities that the proposed transmission lines would substantially interfere with service rendered over the existing lines, except with the consent of the owners; [PL 2001, c. 608, §2 (AMD).]

D. Lands or easements owned or used by railroad corporations, except as authorized pursuant to section 2311; and [PL 2001, c. 608, §2 (AMD).]

E. Lands or easements owned by the State. [PL 2001, c. 608, §2 (NEW).]  
[PL 2001, c. 608, §2 (AMD).]

**3. Prior right to locate distribution lines and appurtenances in right-of-way limits of public way.** Subject to approval by the commission under subsection 4, transmission and distribution utilities may take and hold by right of eminent domain land or easements necessary for the proper location of their distribution lines and the necessary appurtenances, but only where the transmission and distribution utilities had a prior right to locate their distribution lines and necessary appurtenances in the right-of-way limits of a public way and the body having jurisdiction over the public way has caused the utility to remove its distribution lines and appurtenant structures outside the right-of-way limits of the public way. This right does not apply to lands or easements as specified in subsection 2, paragraphs B, C, D and E.

[PL 2007, c. 148, §13 (AMD).]

**4. Commission approval required; certificate of public convenience and necessity; environmental factors.** A location to be taken by eminent domain for such transmission or distribution lines must be approved by the commission before a transmission and distribution utility can exercise the right of eminent domain granted in subsection 1 or subsection 3. The commission may not approve a location to be taken by eminent domain for the construction, rebuilding or relocation of a transmission line that requires a certificate of public convenience and necessity under section 3132, unless the commission has issued a certificate of public convenience and necessity for that transmission line. Environmental factors to be considered for proper location of a transmission line are not subject to review by the commission under this section when the location of the transmission line has received site location of development approval under Title 38, section 484.

[PL 2007, c. 148, §14 (AMD).]

**SECTION HISTORY**

PL 1987, c. 141, §A6 (NEW). PL 1999, c. 398, §A51 (AMD). PL 1999, c. 398, §§A104,105 (AFF). PL 2001, c. 608, §§2,3 (AMD). PL 2007, c. 148, §§12-14 (AMD).

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