



When people talk about building new transmission lines, they often refer to an “easement” or a “right-of-way.” Although the terms are used interchangeably, they are distinct concepts.

What is an easement?

An easement is a document that conveys a permanent property right authorizing a person or party to use the land or property of another for a particular purpose. In this case, a utility acquires certain rights to build and maintain a transmission line. Landowners are paid a fair price for the easement and can continue to use the land for most purposes, although some restrictions are included in the easement agreement. An easement is the legal document that must be signed by the landowner before the utility can use the property in accordance with the terms of the easement.

What is a right-of-way?

A right-of-way is the actual land area acquired for a specific purpose, such as a transmission line, roadway or other infrastructure.

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

An easement is a land right document, and a right-of-way is the physical land upon which the facilities (transmission line, roadway, etc.) are located.

How long does an easement last?

Most electric utility easements are perpetual and not subject to termination or expiration. Once an easement is signed, it becomes part of the property record. The utility, landowner who signed the easement and all future property owners, are bound by the easement agreement terms. If the utility removes the transmission line and abandons the right-of-way, it can release the easement rights.

How are landowners paid for an easement?

Landowners typically are given a one-time payment based on fair market value for easement rights to their land. Most of the land encumbered by the easement is still usable for the same purpose it had been used for, particularly in agricultural settings. Landowners are also eligible for reasonable compensation for property damage that may occur when the transmission line is constructed and during future repair and maintenance. Those terms are addressed in the easement document.

What easement rights will be needed for the construction of a power line?

Xcel Energy will require an easement agreement that allow for surveying, construction, operation and maintenance of a transmission line across a defined right-of-way located on the landowner’s property. These easements will include the right to clear, trim and remove vegetation and trees from within the right-of-way.

What activities are allowed within the easement?

Land within the right-of-way may be used for any purpose that does not interfere with the construction, operation or maintenance of the transmission line. In agricultural areas, the land may be used for crop production and pasture. In areas where the land will be developed, streets, lawn extensions, underground utilities, curbs and gutters, etc., may cross the right-of-way with prior written permission from the utility.

Why are there restrictions on the land?

Providing electrical energy is an essential public service, and some restrictions are necessary within the right-of-way to maintain safe and reliable operations of the transmission line. Utilities have determined that the best way to prevent outages is to restrict the placement of structures within the right-of-way. If a building or structure in the right-of-way caught fire, it could burn into the power line and take the line out of service for an extended period of time. Additionally, buildings or other structures in the right-of-way could hamper maintenance crews from accessing the line if an outage occurs.

UNDERSTANDING EASEMENTS AND RIGHTS-OF-WAY

What are the main building and planting restrictions in the easement?

Conditions will vary, but the primary building and planting restrictions within the right-of-way are in place to ensure that a utility has the necessary clearance for operation and maintenance, and to comply with the National Electric Safety Code. Restrictions within the right-of-way prohibit constructing buildings and structures, storing flammable materials and planting tall-growing vegetation.

Why doesn't the utility just buy the land instead of negotiating an easement?

Utilities' main interest is simply acquiring the amount of land necessary to build and operate a transmission line. Landowners generally prefer to retain ownership of the property so they can maintain better control over its use within the easement restrictions. Often, retaining ownership allows the landowner continued use of the property for things such as agricultural operations, yard extensions or open space, and allowing the property to continue to contribute positively and productively to the owner.

Generally, how large is the area covered by an easement or a right-of-way?

The voltage and the type of transmission structure being built determine the size of the right-of-way.

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

If an agreement cannot be reached, a utility may pursue a state-governed process called condemnation, under which a judge or a panel of impartial individuals decide whether the easement is needed and its value. The condemnation process, also called eminent domain, varies from state to state. In general, states establish strict procedures for determining the amount a landowner should be paid by a utility for acquiring a right for construction and maintenance of a transmission line. Xcel Energy works closely with landowners to arrive at mutually agreeable compensation for easements. In the majority of cases, we reach consensus on payment amounts that are both fair and equitable. Thus, eminent domain is only used occasionally as a last resort.

