

Your Property Rights in the Eminent Domain Process

This handout for landowners describes how public agencies and utilities may use eminent domain to meet their public responsibilities. It also is intended to help landowners understand Maine's eminent domain laws and their rights to (1) participate in the associated review processes and (2) receive just compensation in the event eminent domain is granted.

Public benefit and eminent domain authority

Maine's laws govern the authority by which state and local government agencies and public utility operators can require the sale of private property when the public interest requires it for public uses such as roads, schools, drinking water reservoirs, electric utilities, etc. This authority is called the right of eminent domain. Unlike government agencies, public utilities may use their eminent domain authority only in certain circumstances and only with the approval of the Maine Public Utilities Commission (MPUC).

The state Constitution balances this authority with protections for the rights of private landowners, including a requirement that landowners must receive just compensation in any eminent domain action.

Maine Public Utilities Commission approval required

Before it permits any utility the use of eminent domain, the MPUC must first be convinced that a particular project is necessary. For example, the MPUC must find no available and reasonable alternative better serves the public interest in having access to safe, reliable and economical electric energy.

Utility projects often require additional approvals from local, state, and federal land use regulators. The public is encouraged to participate in the project-review process.

Landowner rights in the eminent domain process

Maine Public Service (MPS) and Central Maine Power (CMP) strongly prefer to negotiate acceptable terms of sale with landowners, and are successful in the vast majority of cases. In instances where the utilities and the landowner cannot agree on a price, or a landowner rejects any offer for the land in question, the companies must seek and obtain separate approval from the MPUC in order to exercise eminent domain.

In such an instance, the MPUC will notify the landowner. The landowner will have the right to participate fully in a public hearing before the MPUC, and the landowner may appeal the MPUC decision to the Maine Supreme Court.

A landowner has the right refuse access to his or her land by utility employees or agents if the company has not received approval from MPUC to acquire the land by eminent domain. Of course, it may be in the landowner's interest to allow utility employees or agents onto his or her property for limited purposes such as surveying, environmental assessments, or a valuation appraisal. That information may help the utilities decide if a particular location is suitable for siting its transmission facilities.

Special protections for certain property

State laws provide special protection for property near inhabited dwellings and for a few other special circumstances. For example, utilities do not have the right to use eminent domain for acquiring ownership or easements over land within 300 feet of an inhabited dwelling.

Transfer of property rights through eminent domain

Upon approval by the MPUC to acquire a property by eminent domain, utilities have the right to enter the property only for the purpose of preparing a survey of the land to be acquired. Utilities

must file a detailed description of the land with the presiding County Commission, and the County Commissioners must endorse the transfer of the land rights before utilities may enter on the property for any other purpose.

Compensation to landowners

Following the transfer of land rights, utilities must pay the former owner fair market value for the property or easement rights, plus an amount that compensates the owner for any reduction in the market value of the remaining portion of the property.

Fair market value means the price a landowner would be likely to receive in a market transaction between a willing buyer and willing seller.

If utilities and the former owner cannot agree on the amount of compensation, either party may, within three years, petition the County Commissioners to determine the compensation. The County Commissioners must hold a public hearing before determining the amount.

Either party may appeal the County Commissioners' decision on compensation within 30 days to Superior Court. A Superior Court decision may be further appealed to the Maine Supreme Court.

Questions and comments

Central Maine Power Company has prepared this flyer in cooperation with the Maine Public Utilities Commission and the Maine Office of Public Advocate. Please feel free to write or call Maine Public Service, Central Maine Power or Maine Electric Power Company with questions regarding this project.

For further information or assistance regarding your property rights and the eminent domain process, contact any of the following individuals or agencies:

Maine Public Service Company
Director of Field Operations
PO Box 1209
Presque Isle, Maine 04769
(207) 760-2540
shartin@mainepublicservice.com

Central Maine Power Company
Manager, Real Estate
Real Estate Department
83 Edison Drive
Augusta, Maine 04336
(207) 621-4753
kenneth.freye@cmpco.com

Maine Electric Power Company
Manager, Real Estate
Real Estate Department
Central Maine Power Company
83 Edison Drive
Augusta, Maine 04336
(207) 621-4753
Kenneth.freye@cmpco.com

Consumer Assistance Division
Maine Public Utilities Commission
State House Station 18
Augusta, Maine 04333
1-800-452-4699

Maine Public Advocate
State House Station 112
Augusta, Maine 04333
(207) 289-2445