

SENATE BILL NO. 833

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR EIGEL.

3186S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 523.010, RSMo, and to enact in lieu thereof one new section relating to condemnation of land by certain utilities.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 523.010, RSMo, is repealed and one new
2 section enacted in lieu thereof, to be known as section 523.010,
3 to read as follows:

523.010. 1. In case land, or other property, is
2 sought to be appropriated by any road, railroad, street
3 railway, telephone, telegraph or any electrical corporation
4 organized for the manufacture or transmission of electric
5 current for light, heat or power, including the
6 construction, when that is the case, of necessary dams and
7 appurtenant canals, flumes, tunnels and tailraces and
8 including the erection, when that is the case, of necessary
9 electric steam powerhouses, hydroelectric powerhouses and
10 electric substations or any oil, pipeline or gas corporation
11 engaged in the business of transporting or carrying oil,
12 liquid fertilizer solutions, or gas by means of pipes or
13 pipelines laid underneath the surface of the ground, or
14 other corporation created under the laws of this state for
15 public use, and such corporation and the owners cannot agree
16 upon the proper compensation to be paid, or in the case the
17 owner is incapable of contracting, be unknown, or be a
18 nonresident of the state, such corporation may apply to the

19 circuit court of the county of this state where such land or
20 any part thereof lies by petition setting forth the general
21 directions in which it is desired to construct its road,
22 railroad, street railway, telephone, or telegraph line or
23 electric line, including, when that is the case, the
24 construction and maintenance of necessary dams and
25 appurtenant canals, tunnels, flumes and tailraces and, when
26 that is the case, the appropriation of land submerged by the
27 construction of such dam, and including the erection and
28 maintenance, when that is the case, of necessary electric
29 steam powerhouses, hydroelectric powerhouses and electric
30 substations, or oil, pipeline, liquid fertilizer solution
31 pipeline, or gas line over or underneath the surface of such
32 lands, a description of the real estate, or other property,
33 which the company seeks to acquire; the names of the owners
34 thereof, if known; or if unknown, a pertinent description of
35 the property whose owners are unknown and praying the
36 appointment of three disinterested residents of the county,
37 as commissioners, or a jury, to assess the damages which
38 such owners may severally sustain in consequence of the
39 establishment, erection and maintenance of such road,
40 railroad, street railway, telephone, telegraph line, or
41 electrical line including damages from the construction and
42 maintenance of necessary dams and the condemnation of land
43 submerged thereby, and the construction and maintenance of
44 appurtenant canals, flumes, tunnels and tailraces and the
45 erection and maintenance of necessary electric steam
46 powerhouses, hydroelectric powerhouses and electric
47 substations, or oil, pipeline, or gas line over or
48 underneath the surface of such lands; to which petition the
49 owners of any or all as the plaintiff may elect of such
50 parcels as lie within the county or circuit may be made

51 parties defendant by names if the names are known, and by
52 the description of the unknown owners of the land therein
53 described if their names are unknown.

54 2. If the proceedings seek to affect the lands of
55 persons under conservatorship, the conservators must be made
56 parties defendant. If the present owner of any land to be
57 affected has less estate than a fee, the person having the
58 next vested estate in remainder may at the option of the
59 petitioners be made party defendant; but if such
60 remaindermen are not made parties, their interest shall not
61 be bound by the proceedings.

62 3. It shall not be necessary to make any persons party
63 defendants in respect to their ownership unless they are
64 either in actual possession of the premises to be affected
65 claiming title or having a title of the premises appearing
66 of record upon the proper records of the county.

67 4. Except as provided in subsection 5 of this section,
68 nothing in this chapter shall be construed to give a public
69 utility, as defined in section 386.020, or a rural electric
70 cooperative, as provided in chapter 394, the power to
71 condemn property which is currently used by another provider
72 of public utility service, including a municipality or a
73 special purpose district, when such property is used or
74 useful in providing utility services, if the public utility
75 or cooperative seeking to condemn such property, directly or
76 indirectly, will use or proposes to use the property for the
77 same purpose, or a purpose substantially similar to the
78 purpose for which the property is being used by the provider
79 of the public utility service.

80 5. A public utility or a rural electric cooperative
81 may only condemn the property of another provider of public
82 utility service, even if the property is used or useful in

83 providing utility services by such provider, if the
84 condemnation is necessary for the public purpose of
85 acquiring a nonexclusive easement or right-of-way across the
86 property of such provider and only if the acquisition will
87 not materially impair or interfere with the current use of
88 such property by the utility or cooperative and will not
89 prevent or materially impair such provider of public utility
90 service from any future expansion of its facilities on such
91 property.

92 6. If a public utility or rural electric cooperative
93 seeks to condemn the property of another provider of public
94 utility service, and the conditions in subsection 4 of this
95 section do not apply, this section does not limit the
96 condemnation powers otherwise possessed by such public
97 utility or rural electric cooperative.

98 7. Suits in inverse condemnation or involving
99 dangerous conditions of public property against a municipal
100 corporation established under Article VI, Section 30(a) of
101 the Missouri Constitution shall be brought only in the
102 county where such land or any part thereof lies.

103 8. For purposes of this chapter, the authority for an
104 electrical corporation as defined in section 386.020, except
105 for an electrical corporation operating under a cooperative
106 business plan as described in section 393.110, to condemn
107 property for purposes of constructing an electric plant
108 subject to a certificate of public convenience and necessity
109 under subsection 1 of section 393.170 shall not extend to
110 the construction of a merchant transmission line with
111 Federal Energy Regulatory Commission negotiated rate
112 authority unless such line has a substation or converter
113 station located in Missouri which is capable of delivering
114 an amount of its electrical capacity to electrical customers

115 in this state that is greater than or equal to the
116 proportionate number of miles of the line that passes
117 through the state. The provisions of this subsection shall
118 not apply to applications filed pursuant to section 393.170
119 prior to August 28, 2022.

120 **9. For purposes of this section, the authority of any**
121 **corporation set forth in subsection 1 of this section to**
122 **condemn property shall not extend to the construction or**
123 **erection of any plant, tower, panel, or facility that**
124 **utilizes, captures, or converts wind or air currents to**
125 **generate or manufacture electricity.**

126 **10. For purposes of this section, the authority of any**
127 **corporation set forth in subsection 1 of this section to**
128 **condemn property shall not extend to the construction or**
129 **erection of any plant, tower, panel, or facility that**
130 **utilizes, captures, or converts the light or heat generated**
131 **by the sun to generate or manufacture electricity.**

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