

SECOND REGULAR SESSION

SENATE BILL NO. 954

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BEAN.

4506S.011

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Section A. Section 523.010, RSMo, is repealed and one new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

nonresident of the state, such corporation may apply to the circuit court of the county of this state where such land or any part thereof lies by petition setting forth the general directions in which it is desired to construct its road, railroad, street railway, telephone, or telegraph line or electric line, including, when that is the case, the construction and maintenance of necessary dams and appurtenant canals, tunnels, flumes and tailraces and, when that is the case, the appropriation of land submerged by the construction of such dam, and including the erection and maintenance, when that is the case, of necessary electric steam powerhouses, hydroelectric powerhouses and electric substations, or oil, pipeline, liquid fertilizer solution pipeline, or gas line over or underneath the surface of such lands, a description of the real estate, or other property, which the company seeks to acquire; the names of the owners thereof, if known; or if unknown, a pertinent description of the property whose owners are unknown and praying the appointment of three disinterested residents of the county, as commissioners, or a jury, to assess the damages which such owners may severally sustain in consequence of the establishment, erection and maintenance of such road, railroad, street railway, telephone, telegraph line, or electrical line including damages from the construction and maintenance of necessary dams and the condemnation of land submerged thereby, and the construction and maintenance of appurtenant canals, flumes, tunnels and tailraces and the erection and maintenance of necessary electric steam powerhouses, hydroelectric powerhouses and electric substations, or oil, pipeline, or gas line over or underneath the surface of such lands; to which petition the 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

utility service, even if the property is used or useful in providing utility services by such provider, if the condemnation is necessary for the public purpose of acquiring a nonexclusive easement or right-of-way across the property of such provider and only if the acquisition will not materially impair or interfere with the current use of such property by the utility or cooperative and will not prevent or materially impair such provider of public utility service from any future expansion of its facilities on such property.

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

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

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

an amount of its electrical capacity to electrical customers in this state that is greater than or equal to the proportionate number of miles of the line that passes through the state. The provisions of this subsection shall not apply to applications filed pursuant to section 393.170 prior to August 28, 2022.

9. For the purposes of this chapter, the authority of any corporation set forth in subsection 1 of this section to condemn property shall not extend to:

(1) The construction or erection of any plant, tower, panel, or facility that utilizes, captures, or converts wind or air currents to generate or manufacture electricity; or

(2) The construction or erection of any plant, tower, panel, or facility that utilizes, captures, or converts the light or heat generated by the sun to generate or manufacture electricity.

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