

**§2311. Lines along railroads; application to Public Utilities Commission when disagreement**

A person maintaining or operating a telephone or electric line may construct a line across, upon or along any railroad with the written permit of the person owning or operating the railroad. If the person maintaining or operating a telephone or electric line and the person owning or operating the railroad can not agree as to the construction or manner of construction of lines upon, along or across the railroad or as to the continued operation of lines constructed upon, along or across the railroad, either party may apply to the commission, who, after notice to those interested, shall hear and determine the matter. The commission's decision is binding upon the parties. The commission may grant the person seeking to construct or operate a line a permit with appropriate terms and conditions to construct or operate the line along, upon or across the railroad or, in the case of a line across the railroad, authorize, subject to appropriate terms and conditions, the person to take by eminent domain an easement across the railroad. The taking of an easement authorized by the commission pursuant to this section must be in accordance with the procedures established in chapter 65. This section does not permit the commission to authorize the taking of an easement over lands owned by the State. The person seeking to construct lines on the railroad shall pay the expenses of the hearing, except that if the commission finds that parties owning or operating the railroad have unreasonably refused their consent, those parties shall pay the expenses. Without limiting the commission's jurisdiction under this section, if a railroad company and a telephone or transmission and distribution utility enter into an agreement involving a utility crossing of railroad property and that agreement or some other agreement provides that the commission shall resolve disputes arising under the original agreement, the commission may resolve those disputes. As used in this section, the term "railroad" includes, but is not limited to, a railroad whose abandonment has been approved pursuant to 49 United States Code, Chapter 109. [PL 2001, c. 608, §1 (AMD).]

**SECTION HISTORY**

PL 1987, c. 141, §A6 (NEW). PL 1991, c. 743, §1 (AMD). PL 2001, c. 608, §1 (AMD).

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