

# BRAUN & GRESHAM

ATTORNEYS AT LAW

## Top 10 Frequently Asked Questions About Transmission Lines and the Utility Routing Process



By Patrick Reznik

*Patrick's Texas farm and ranch background, agricultural engineering education, and hardworking lifestyle bring a skilled, creative, understanding and compassionate approach to protecting clients' rights and resolving conflicts. His years of working with clients in difficult and often emotional circumstances have equipped him to handle complex legal problems with skill and compassion. Patrick leads the firm's transmission routing and condemnation practice, and also handles other general litigation work.*

### 1. I just received written notice that my land and/or home may be impacted by a new transmission line. What should I do?

- First, recognize the reality that if you do nothing, you may end up with a new transmission line on your property. Depending on the size of the line, the towers (or "structures") can reach 10 to 16 stories tall! These new power lines may take between a 100 foot to 250 foot wide easement or right-of-way across your land.
- Second, you should find out the critical deadlines - particularly the "intervention" deadline. To "intervene," the landowner must fill out a particular form (with a sufficient number of copies) and file it with the Public Utility Commission (PUC) by the intervention deadline. If you don't intervene, you can't participate in the PUC routing process.
- Third, understand that the routing process is complicated, and that it's important to have experienced counsel on your side. Braun & Gresham offers a free 30-minute consultation to ensure you understand your rights.

### 2. As an affected landowner, can I influence the final route?

If you file an Intervention before the deadline, you can in-

fluence the outcome of the final route ultimately chosen by the PUC. If you *do not* Intervene, you are more likely to get the new transmission line across your property.

### 3. What if my land is not on the utility company's "recommended" route?

Landowners often feel relieved to learn they are not on the "recommended" route (formerly called the "preferred" route). Don't be misled by this term. Even if you are not on the recommended route, your chances of taking the line *are not* decreased. In our experience, landowners who don't intervene and participate in the PUC routing process will be more likely to have their property condemned.

### 4. Is there a difference between filing an Intervention and a Statement of Position?

There is a significant difference. Landowners are often told to just file a Statement of Position to avoid the costs of being an Intervener. The Statement of Position is not true evidence and does not have to be considered. If you file a Statement of Position, you are not a "party" to the legal proceeding and cannot testify. Only Interveners truly influence the route.

## **5. Is there a formal routing process?**

Yes, the PUC routing process is similar to a trial with technical legal rules and strict deadlines. An Administrative Law Judge (the "ALJ") with the State Office of Administrative Hearings ("SOAH") will hear the evidence in the case. If you intervene in the process, you will be allowed to file written direct testimony, prior to the hearing, that gives you the opportunity to describe the unique features and uses of your property and how the line would impact you and your land. If requested, Interveners must appear at the hearing for cross-examination. After hearing all the evidence and post-hearing briefing by the parties, the ALJ files a Proposal for Decision ("PFD") with the PUC. The PUC can accept the route chosen in the ALJ's PFD or come up with a different route. We have had excellent success in reaching a "settlement route" on many of our cases prior to the SOAH hearing. This avoids the uncertainty of what an ALJ might decide in the PFD, and the PUC generally favors settlements reached by the Interveners.

## **6. I intervened on my own and I am being bombarded with all this paper. What do I do now?**

If you intervened on your own, you will quickly discover the complexity of this legal process and will need legal help if you want to reduce your stress and maximize your success. Braun & Gresham offers an initial, free 30-minute consultation to ensure you understand the requirements of this complex legal process.

## **7. Do I need a qualified lawyer experienced in routing hearings before the State Office of Administrative Hearings (SOAH) and the Public Utilities Commission (PUC)?**

Interveners who have the most successful outcomes have hired attorneys, like Braun & Gresham, who are experienced in the routing process before SOAH and the PUC. Braun & Gresham has successfully handled many cases with various utility companies. We have a list of experts who can analyze the utility company's technical data and give expert testimony as to alternative routes that benefit our clients. When Interveners without counsel attend the first hearing, most are overwhelmed with the complexity and unfamiliarity of the process and then seek counsel. Our preference is to start early in the process to maximize the chance of success for our clients.

## **8. How much will it cost to hire an attorney?**

This question is always difficult to answer because each case has its own variables. We have achieved success for our clients by creating budgets to fit their individualized strategies. Much depends on your land use, the utility company, where your land is located on the various proposed routes, and whether experts are required to maximize the potential for your success. One of the best ways we spread costs and expenses is by using our expertise in organizing landowner groups. An alliance of landowners maximizes leverage while minimizing costs. Our goal is to manage costs by creating a budget to fit the needs of the client (or landowner group) who then oversees costs through every step in the process.

## **9. Can I get paid now if I agree to accept the line on my land?**

No, you cannot. The complete process for building new lines requires three phases:

- Phase 1: The utility company's planning of the proposed alternate routes within the area being studied for preliminary alternative routes.
- Phase 2: The PUC routing process, in which the utility company files its formal application with the PUC and "recommends" a route, including proposed alternative routes. After the routing hearing before SOAH, the PUC orders a final route to be built. We often reach an agreement between the Interveners and the utility company on an alternative "settlement route" the utility company did not include in its application. This settlement route is often more favorable for our clients and avoids a full-blown routing hearing before SOAH.
- Phase 3: The condemnation / eminent domain process, or the "land acquisition" phase as the utility companies often call it, is the final phase. If the PUC orders the line to be built across your land, as part of this phase, you will be offered some amount as determined by the utility company for the "taking" of the easement and right-of-way as part of the condemnation process.

## **10. I just received written notice from the utility company that they are hosting an open house meeting. Should I attend?**

If you received a letter from a utility company about an open house meeting, you should make an effort to attend. This is part of phase one described in No. 9 above. Utility companies often hold community meetings to get landowner input about their "preliminary" alternative route segments or links. This is the first place your voice may be heard so take advantage of the opportunity!