

**161.45 UTILITY ON HIGHWAY RIGHT-OF-WAY; RELOCATION.**

Subdivision 1. **Rules.** (a) Electric transmission, telephone, or telegraph lines; pole lines; community antenna television lines; railways; ditches; sewers; water, heat, or gas mains; gas and other pipelines; flumes; or other structures which, under the laws of this state or the ordinance of any city, may be constructed, placed, or maintained across or along any trunk highway, or the roadway thereof, by any person, persons, corporation, or any subdivision of the state, may be so maintained or hereafter constructed only in accordance with such rules as may be prescribed by the commissioner who shall have power to prescribe and enforce reasonable rules with reference to the placing and maintaining along, across, or in any such trunk highway of any of the utilities hereinbefore set forth.

(b) Except as necessary to protect public safety or ensure the proper function of the trunk highway, including future expansions, the rules prescribed by the commissioner under paragraph (a) must not prohibit an entity from placing and maintaining electric transmission lines along, across, or in any trunk highway if the entity:

(1) has a right to use the public road right-of-way pursuant to section 222.37, subdivision 1;

(2) has a power purchase agreement or an agreement to transfer ownership with a Minnesota utility that directly, or through its members and agents, provides retail electric service in the state; and

(3) obtains a permit from the commissioner.

(c) The commissioner must decide whether to issue a permit to an entity within 60 days of receiving the entity's request.

(d) Nothing herein shall restrict the actions of public authorities in extraordinary emergencies nor restrict the power and authority of the commissioner of commerce as provided for in other provisions of law. Provided, however, that in the event any local subdivision of government has enacted ordinances relating to the method of installation or requiring underground installation of such community antenna television lines, the permit granted by the commissioner of transportation shall require compliance with such local ordinance.

Subd. 2. **Relocation of utility.** Whenever the relocation of any utility facility is necessitated by the construction of a project on a trunk highway route, the relocation work may be made a part of the state highway construction contract or let as a separate contract as provided by law if the owner or operator of the facility requests the commissioner to act as its agent for the purpose of relocating the facilities and if the commissioner determines that such action is in the best interests of the state. Payment by the utility owner or operator to the state shall be in accordance with applicable statutes and the rules for utilities on trunk highways.

Subd. 3. **Utility interests when real property conveyed.** In proceedings to vacate, transfer, turn back, or otherwise convey an interest in real property owned or controlled by the department, when the property is owned in fee by the state, the commissioner may specify that the conveyance of the department's interest does not affect a prior, existing utility easement in the property or use of the property granted to a utility under permit issued by the department. In addition, the commissioner may convey interests in real property, including an easement, subject to the right of a utility to enter upon the right-of-way to maintain, repair, replace, reconstruct, improve, remove, or otherwise attend to its equipment. Where the utility had no preexisting easement over the real property, this subdivision does not prohibit a political subdivision, government agency, or private entity from negotiating or contracting with a utility with regard to the utility's

easement or other interest in the property, but the utility shall continue to hold the interest in the property and the right of reasonable entry unless and until the utility agrees in writing to relinquish its interests.

**History:** *1959 c 500 art 2 s 45; 1967 c 231 s 2; 1971 c 25 s 67; 1973 c 123 art 5 s 7; 1973 c 568 s 19; 1976 c 166 s 7; 1985 c 248 s 70; 1997 c 231 art 16 s 5; 1Sp2001 c 4 art 6 s 22; 2023 c 68 art 4 s 29,30*