

Eminent Domain

By definition, eminent domain is the power to condemn private land for the public good.

Georgia law grants a number of agencies, including electric utilities, authority to use eminent domain when necessary to gain access to property for “public use,” e.g. the benefit of the public as a whole. Other agencies holding the right of eminent domain include the railroad, telephone, natural gas, petroleum pipelines, all 159 counties, the Department of Transportation, Department of Natural Resources, Regional Transportation Authority, and the Board of Regents.

In Jan. 2004, the Georgia Legislature passed new legislation providing additional protection for property owners and more specifics for how the eminent domain law may be used.

The new law, which takes affect July 1, 2004, adds several new requirements to this process.

- A utility must hold two public meetings in each county where a transmission line 115 kilovolt or larger and at least one mile in length is to be constructed. If fewer than 50 landowners are affected only one public meeting is required.
- The process of identifying a transmission line route based on consideration of land uses, existing corridors, existing environmental conditions, engineering practices and costs related to construction, operation and maintenance of the line has been formalized. While Georgia Power used this process already, it is now a written, legal provision.
- All offers of fair compensation for an easement must be in writing, accompanied by a document that describes the owners’ rights and a drawing that shows the location of the line on the property.
- If the utility does not begin construction of the line within 12 years for lines 230Kv or smaller or 15 years for lines larger than 230Kv, the utility must either sell the property back to the owner for the same price that the utility paid, or if the property value has increased, the utility can opt to pay the difference in the value to keep the easement. Georgia Power believes that those timetables are realistic and provide enough time for the planning, acquisition and construction of a new transmission line.

Georgia Power is a good steward of the power of eminent domain. The utility has used the process in less than 3 percent of the property it has purchased in the last five years. Typically the rule is used as a last resort to prevent one or a small group of property owners from refusing to provide access, thus jeopardizing reliable delivery of electricity for an entire community.

However, Georgia’s rapid growth creates an increasing demand for more electricity. The only way to guarantee reliable delivery of electricity is to build the infrastructure that delivers it when and where needed. To do this, property must be acquired for the

network of transmission lines and substations that bring electricity from a generating plant to local power distributors.

Georgia's Integrated Transmission System (ITS) is an agreement between Georgia Transmission Corporation, Municipal Electric Authority of Georgia (MEAG), Dalton Utilities and Georgia Power. The transmission grid in Georgia is jointly owned by these companies. Any system expansion is jointly planned by each of these organizations and Savannah Electric and Power. This avoids duplicate facilities, provides lower cost and has less impact on the public.

Once Georgia Power determines the need for a line in its service area, a route is selected based on community and environmental impact, engineering, reliability, safety and cost. The site selection is done without knowing property owners' names. After the selection is complete the property owners are identified and notified on a one-on-one basis, along with other stakeholders, such as local and state elected officials. Georgia Power negotiates a fair-market value with each land owner for the right-of-way.

The average electricity use per customer in 1960 was 600 watts. By 2000 that use had soared to 2,900 watts per customer. Projections for 2010 indicate that electricity demand will grow by 9,500 MW (enough for 2.1 million homes). To meet this demand, Georgia Power must build approximately 200 miles of new transmission lines by 2008 at a cost of approximately \$250 million.

Georgia Power currently has to provide certification of need and justification of a practical route as part of its condemnation proceedings in the courts. Over the last 90 years, the courts have approved both the certification of need and justification of a practical route in every case.

Georgia Power, as a regulated utility, has an obligation to provide electrical service to customers in its territory and is required to build the necessary transmission infrastructure to meet electricity demands. Eminent domain ensures that reliable electricity is available for Georgians.