

HF 1182  
2-08-10

Thank you for letting me submit my comments to the House Energy Committee hearing on removing exceptions to the eminent domain law. I am grateful for this opportunity to address House File 1182, and to confirm the need for the removal of these exceptions. This is a pressing issue that will have a serious impact on the landowners in Minnesota who will have to host the numerous high voltage transmission lines that are proposed. It will probably affect the constituents of most or all of the legislators in attendance today .

The eminent domain law changes that were passed in 2006 went a long way to protect citizens and give them a fair deal for their land in eminent domain cases. However, as you know, Public Service Corporations were exempted from these laws by Statute 117.189, -- all electric utilities including the 11 entities that comprise CapX2020 are PSC's and receive this benefit.

Although a couple of the exemptions in 117.189 have been modified in the last two legislative sessions, the bulk of the exemptions still apply to PSC's, including utilities, in the taking of landowner property for transmission lines.

Exemptions like MN Statute 117.031 still apply. While landowners are protected from unjust low offers from the government in condemnation proceedings, they have no such protection from utility offers. Regardless of the % of difference between a utility's initial offer and the final awarded judgment, they will not be reimbursed for attorney fees, even when the difference is 40% or more.

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Minnesota Statute 117.186 provides compensation for loss of a going concern's value if a business is destroyed in the eminent domain process and up to three years of gross income for damages to a business if 51% of driveway access is lost or taken. Utilities are exempted from this provision. It also exempts them from providing minimum compensation sufficient for the owner to purchase a comparable property in the community.

There are more exemptions that I will not go in to, but I would like to point out that when bad offers are made with no landowner protections for the eminent domain process, the road to a fair and just resolution for them is long and arduous and expensive, with no recovery of costs under the present exemptions to the 2006 eminent domain laws. I have talked to a couple of citizens who are still going through this nightmare on the MinnCann pipeline project for the south metro area and each step of the way for them costs more and more money for appraisals and attorney fees with no hope for recovery under the present law. This is just not fair.

I have heard it said that the electric companies will treat landowners fairly, regardless of the Minnesota laws on eminent domain, but I would like to point out a 2007 article in the Farmington Independent, that raises strong questions about that assertion.

The article reports on a group of Farmington citizens battling with Great River Energy for more than a year, trying to get adequate compensation for land taken to construct a 115 kilovolt power line across portions of their property. Mediation finally awarded these landowners \$55,000, - a 376% increase over the original \$14,600 offer. But because of the utility exceptions

to MN Eminent Domain laws, even if these landowners win GRE's appeal to the mediation decision, much of the increase they realize goes to attorney fees. Many Farmington landowners accepted the \$14,600 offer. Was it because they thought it was fair and that they should give away their easements for the public good? I would suggest it was out of a historical lack of faith in the system to give them fair treatment, and an unwillingness to confront the powerful utilities whose pockets are deep and only gain by extending time for payment. Does the much higher offer to those who appealed and went through the complicated system of receiving justice, suggest they got overpayments from a biased court? I don't think so.

I constantly hear the argument that low ratepayer cost must be considered as large, high voltage transmission lines are built. Indeed, this argument has grounded every conversation around the justification to build new dirty coal plants and to continue the use of old dirty coal plants. In the case of the CapX2020, Big Stone II was a large factor in justifying their construction, being listed in key engineering studies as a source of energy for those lines. In fact, with Big Stone II's demise, there are many more questions around the "need" for these lines. But to get back to the ratepayer/landowner argument on unfair exceptions to the eminent domain law, I would like to point out that, if you asked your constituents whether or not they would like a tiny reduction on their kilowatt hours acquired on the backs of unfairly low offers to the landowners who are forced to host these lines, my bet is that they, like me, would say "no". They might even point out that they could be the next affected landowner and that they would like fair treatment in negotiating condemnations.

Groups opposed to high voltage large transmission lines are working very hard to ensure that these lines do not take advantage of Minnesota ratepayers and property owners while bringing little benefit to our state, and much potential to slow down the development of local, economically beneficial renewable energy. Why is it then, that we would ask our landowners to not only host these questionable lines, to endure a view-scape of 170 foot high towers every 600-900 feet with a constant hum and an admitted safety issue of dangerous EMF's that the World Health Organization in studies has been determined to raise the incidence of leukemia in children? And then we want to ask them to give away their property too?

In the upcoming legislative session, you have an opportunity to right an egregious wrong, and create a level playing field for landowners who are asked to turn over their properties for the alleged greater good of the people of Minnesota. Please do not fail them by leaving the present exemptions for Public Service Corporations in place. Remove these exceptions. In the future, many more of your constituents will become these affected landowners and will be expecting justice when asked to sacrifice for a perceived greater good.