

1907

**An Act to Facilitate the Construction of Telegraph, Telephone, Electric Light Power and Pipe Lines, Providing the Right of Eminent Domain Therefor, and Defining the Relation of Persons or Corporations Seeking Such Rights of Way to Persons or Corporations Already Owning Such Rights of Way, Including Those Owning or Using and Those Seeking to Own and Use Rights of Way for the Transmission of Electric or Other Power.**

Colorado General Assembly

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## CHAPTER 175.

## EMINENT DOMAIN.

(S. B. No. 233, by Senator Parks.)

## AN ACT

AN ACT TO FACILITATE THE CONSTRUCTION OF TELEGRAPH, TELEPHONE, ELECTRIC LIGHT POWER AND PIPE LINES, PROVIDING THE RIGHT OF EMINENT DOMAIN THEREFOR, AND DEFINING THE RELATION OF PERSONS OR CORPORATIONS SEEKING SUCH RIGHTS OF WAY TO PERSONS OR CORPORATIONS ALREADY OWNING SUCH RIGHTS OF WAY, INCLUDING THOSE OWNING OR USING AND THOSE SEEKING TO OWN AND USE RIGHTS OF WAY FOR THE TRANSMISSION OF ELECTRIC OR OTHER POWER.

*Be it Enacted by the General Assembly of the State of Colorado [Colorado]:*

Section 1. Any telegraph, telephone, electric light or power or pipe line company chartered or incorporated under the laws of this state, shall have the right to construct, maintain and operate lines of telegraph, telephone, electric light, wire or power or pipe line along, across, upon and under any public highway in this state subject however to the provisions of this act, but such lines of telegraph, telephone, electric light, wire, power or pipe line shall be so constructed and maintained as not to obstruct or hinder the usual travel on such highway.

Sec. 2. Any telegraph, telephone, electric light power or pipe line company chartered or incorporated under the laws of this state shall have the right to construct, maintain and operate lines of telegraph, telephone, electric light wire power or pipe line and obtain permanent right of way therefor, over, upon, under and across all public lands owned by or under the control of the State of Colorado, upon the payment of such compensation and upon compliance with such reasonable conditions as may

be required by the State Board of Land Commissioners of the State of Colorado.

Power to  
contract.

Sec. 3. That such telegraph, telephone, electric light power or pipe line company shall have power to contract with any person or corporation, the owner of any lands or any franchise, easement or interest therein, over or under which the line of telegraph, telephone, electric light wire power or pipe line is proposed to be laid or created, for the right of way for the construction, maintenance and operation of its telegraph, telephone, electric light wires, pipes, poles or other property, and for the erection, maintenance, occupation and operation of offices at suitable distances for the public accommodation.

Right to cross  
other lines, etc.

Sec. 4. That such telegraph, telephone, electric light power or pipe line company shall be entitled to the right of way over or under the lands, property, privileges, rights of way and easements of other persons and corporations, and to the right to erect its poles, wires, pipes, system and offices, upon making just compensation therefor, in the manner now provided by law; provided, however, that the right hereby granted, and the rights granted by section 5 hereof shall not extend to the taking of any portion of the right of way of a railroad company, except to the extent of acquiring any necessary easement or easements to cross the same, or to serve such railroad company with telegraph, telephone or electric light service.

Eminent  
domain private  
property.

Sec. 5. That such telegraph, telephone, electric light power or pipe line company is hereby vested with the power of eminent domain, and authorized to proceed to obtain rights of way for poles, wires, pipes and systems for the purposes aforesaid by means thereof, and whenever such company shall be unable to secure by deed, contract or agreement such rights of way for the purposes aforesaid, over, under, across and upon the lands, property, privileges, rights of way or easements of persons or corporations, it shall be lawful for such telegraph, telephone, electric light power or pipe line company to acquire such title in the manner now provided by law for the exercise of the right of eminent domain and in the manner as set forth in this act.

Filing of  
petition.

Sec. 6. Immediately upon the filing of the verified petition provided for by Section 1716 of Mills Annotated Statutes accompanied by the deposit with the Clerk of

the Court for the use of the respondent of that amount of Court costs. money which the Court or Judge thereof, from the affidavits of two disinterested persons selected by the petitioner and from such other evidence as the Court or Judge Evidence. thereof may require, shall determine to be compensation Compensation. proper to be made to any person or corporation holding or owning any right, title, interest, claim, lien or estate in, to or upon any lands, real estate, mining claims or any interest therein, the Court or Judge thereof shall, by rule Order of court. in that behalf made, authorize the petitioner if not in possession to take immediate possession of such right of way, and if already in possession to maintain and keep such possession and in all cases to use and enjoy such right of way during the pendency and until the final conclusion of such proceedings, and shall, by rule in that behalf Stay or made, stay all actions and proceedings against such proceedings. petitioner on account thereof.

Sec. 7. Any person or corporation seeking to secure Agreement a right of way for lines of telegraph, telephone, electric of conditions. light, or for the transmission of electric power for any purpose, over, under or across any right of way of any other person or corporation for such purposes, or any of them, or seeking to erect or construct his or its lines of wire or wires under or over the lines of wire or wires already constructed by such other person or corporation for any such purposes upon, under, along or across any public highway, or upon, under along or across any public lands owned or controlled by the State of Colorado, shall, before constructing such lines or wires over, under or across such rights of way or wires of other persons or corporations, where either of said line or lines, wire or wires, shall carry a current at an electrical pressure of five thousand (5,000) volts or more, agree with such other persons or corporations as to the conditions under or upon which such overhead or underneath construction, crossing or crossings, shall be made, looking to the due protection and safeguard of the wires of the person or corporation already having right of way for such wires, and looking to the safety of life, health and property, and in case of inability to agree upon the conditions under or upon which such overhead or underneath crossing or crossings shall be made, then the person or persons, corporation or corporations owning and operating or controlling the lines of wires already built or constructed,

## Arbitration.

and the person or persons, corporation or corporations seeking to construct new lines or wires, or to make said crossing or crossings, shall each select a person as an arbitrator, which two persons shall determine said conditions under or upon which such overhead or underneath construction, crossing or crossings, shall be made, and in case of a disagreement in regard thereto, by the said arbitrators, they shall select a third person to act with them, and the decision made by any two of said arbitrators shall be final and binding upon the person or persons, corporation or corporations so seeking to make or construct crossing or crossings as aforesaid, shall construct the crossing or crossings in a manner determined by such arbitrators. The parties interested shall before they make their submission to the arbitrators, make and subscribe a written article of agreement in and by which they shall agree to submit the said matter as to how said crossing or crossings shall be made, to the arbitrators named, and will abide by their award. Said award shall be in writing, and a copy thereof delivered to each of the parties interested. Such conditions for protection at said crossing or crossings shall be established at the sole expense of the person or corporation seeking the right of way for such overhead or underneath construction, crossing or crossings; provided, however, that nothing in this act shall affect the right of any person or persons, corporation or corporations to make such crossing or crossings where the lines or wires of neither of the parties concerned carry a current at an electrical pressure of five thousand (5,000) volts or more.

## Award of arbitration final.

## Proviso.

## Act construed.

Sec. 8. Nothing in this act contained shall be construed to authorize any person, partnership, association or corporation to erect any poles, construct any telegraph, telephone, electric light power or pipe line or extend any wires or lines along, through, in, upon, under or over any streets or alleys of any City or incorporated town without having first obtained the consent of the municipal authorities having power to give such consent of such City or incorporated town.

## Repeal.

Sec. 9. That an act entitled "An Act to Facilitate the construction of telegraph, telephone, and Electric Light lines", approved April 7th, 1885, is hereby repealed.

Approved April 2nd 1907.