

## **IC 32-24-4**

### **Chapter 4. Procedures for Utilities and Other Corporations**

#### **IC 32-24-4-1**

##### **Public utilities**

Sec. 1. (a) A person, firm, partnership, limited liability company, or corporation authorized to do business in Indiana and authorized to:

(1) furnish, supply, transmit, transport or distribute electrical energy, gas, oil, petroleum, water, heat, steam, hydraulic power, or communications by telegraph or telephone to the public or to any town or city; or

(2) construct, maintain or operate turnpikes, toll bridges, canals, public landings, wharves, ferries, dams, aqueducts, street railways, or interurban railways for the use of the public or for the use of any town or city;

may take, acquire, condemn, and appropriate land, real estate, or any interest in the land or real estate to accomplish the essential delivery of services described in subdivisions (1) and (2).

(b) A person described in subsection (a) has all accommodations, rights, and privileges necessary to accomplish the use for which the property is taken. A person acting under subsection (a) may use acquired, condemned, or appropriated land to construct railroad siding, switch, or industrial tracks connecting its plant or facilities with the tracks of any common carrier.

*As added by P.L.2-2002, SEC.9. Amended by P.L.163-2006, SEC.16.*

#### **IC 32-24-4-2**

##### **Fee simple or easements**

Sec. 2. The condemnor may take, acquire, condemn, and appropriate a fee simple estate, title, and interest in an amount of land as the condemnor considers necessary for the condemnor's proper uses and purposes. However, for rights-of-way, the condemnor shall take, acquire, condemn, and appropriate an easement.

*As added by P.L.2-2002, SEC.9.*

#### **IC 32-24-4-3**

##### **Authority to exercise eminent domain**

Sec. 3. The appropriation and condemnation of land and easements in land authorized under this chapter shall be made under IC 32-24-1, except as otherwise provided in this chapter.

*As added by P.L.2-2002, SEC.9.*

#### **IC 32-24-4-4**

##### **Application; payments; election of method; sale of interest in servient estate; statement in offer; acceptance of offer**

Sec. 4. (a) This section applies to a public utility that appropriates by condemnation procedures an easement for right-of-way purposes on land zoned or used for agricultural purposes.

(b) If a public utility makes a uniform easement acquisition offer

under IC 32-24-1-5 or a settlement offer under IC 32-24-1-12 in excess of five thousand dollars (\$5,000), the owner of the land may elect to accept as compensation either a lump sum payment or annual payments for a period not to exceed twenty (20) years.

(c) The landowner must elect either the lump sum payment or the annual payment method at the time the landowner:

- (1) accepts the public utility's offer under IC 32-24-1-5 or IC 32-24-1-12 to purchase an easement;
- (2) accepts the appraisers' award; or
- (3) is awarded damages by a judgment in a proceeding under this article.

The grant of easement or judgment, whichever is applicable, must state the method of payment the landowner has elected to receive.

(d) If the land is owned by more than one (1) person, the election to receive annual payments must be unanimous among all record owners to be binding upon the public utility.

(e) Selection of the lump sum method of payment irrevocably binds the landowner and the landowner's successors in interest.

(f) The annual amount payable must be equal to the lump sum payment that would have otherwise been made by the utility divided by the number of years the landowner elects to receive the annual payments plus interest at a rate agreed upon by the public utility and the landowner on the balance remaining at the end of each year. The public utility shall make the annual payment as close as practicable to the date of the landowner's acceptance of the public utility's offer or the date of the judgment granting the utility the easement. If the public utility and the landowner are unable to agree upon the interest rate, the interest rate shall be the average annual effective interest rate for all new Federal Land Bank Loans, computed on the basis of the twelve (12) month period immediately preceding the date of settlement.

(g) A landowner who withdraws the appraisers' award under IC 32-24-1-11 may receive only a lump sum payment from the clerk at that time. If the landowner is later awarded a judgment for damages that exceeds the amount of the appraisers' award, the landowner may elect either method of compensation only to the extent that the damages exceed the appraisers' award remaining to be paid by the public utility as a result of the judgment.

(h) A landowner who elects the annual payment method may terminate the election by giving notarized written notice to the public utility at least ninety (90) days before the annual date of payment. The public utility may prescribe reasonable forms for the notice and may require that these forms be used for the notice to be effective. In the event the landowner terminates this election, the public utility shall pay the landowner in a single payment the difference between the lump sum and the total of all annual payments previously paid by the public utility. Upon the landowner's receipt of this payment, the public utility's payment obligations cease.

(i) If a landowner sells the landowner's entire interest in the servient estate, the landowner shall give the public utility prompt



COUNTY OF \_\_\_\_\_ )

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_. My Commission Expires: \_\_\_\_\_

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(Signature)

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(Printed) NOTARY PUBLIC.

*As added by P.L.2-2002, SEC.9.*