

House Bill 305

By: Representatives Walker of the 71st, Post 1 and Manning of the 32nd

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 3 of Title 22 of the Official Code of Georgia Annotated, relating to
2 exercise of the power of eminent domain for special purposes, so as to prohibit the use of the
3 power of eminent domain to acquire any property for the construction of an electric
4 transmission line without the issuance of a certificate of public convenience and necessity
5 by the Public Service Commission; to provide for applications for such certificates and the
6 practice and procedure in connection therewith; to provide for related matters; to provide for
7 an effective date and applicability; to repeal conflicting laws; and for other purposes.

8 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

9 **SECTION 1.**

10 Chapter 3 of Title 22 of the Official Code of Georgia Annotated, relating to exercise of the
11 power of eminent domain for special purposes, is amended by adding at the end of said
12 chapter a new Article 8 to read as follows:

13 **"ARTICLE 8**

14 22-3-160.

15 (a) Before exercising the right of eminent domain for purposes of an electric transmission
16 line, the condemnor shall first obtain from the Public Service Commission a certificate of
17 public convenience and necessity. The commission shall grant such a certificate unless it
18 finds that the application and proceedings on the application fail to demonstrate the public
19 necessity for the electric transmission line.

20 (b) The Public Service Commission shall prescribe regulations pursuant to Chapter 13 of
21 Title 50, the 'Georgia Administrative Procedure Act,' relative to the requirements for
22 obtaining a certificate of public convenience and necessity which shall include:

23 (1) A requirement that the application for such certificate shall include a description of
24 the proposed project including its general route, a description of the public convenience

1 and necessity which support the proposed route, the width of the proposed transmission
2 line corridor, a showing that use of the power of eminent domain may be necessary to
3 construction of the transmission line, a showing that the public necessity for the
4 transmission line justifies the use of the power of eminent domain, a showing that the
5 proposed transmission line corridor is the feasible route which is least disruptive to the
6 rights of private landowners, and a showing that the applicant has considered all
7 reasonable alternative construction approaches, specifically including the consideration
8 of both above ground and below ground construction;

9 (2) A provision for reasonable public notice of the application and the proposed route;

10 (3) A provision for the holding of at least three well-publicized public hearings
11 concerning the application and the proposed route, at least one of which hearings shall
12 commence between 6:00 P.M. and 7:00 P.M., inclusive, on a business weekday;

13 (4) A provision for a hearing by the Public Service Commission on the application and
14 the filing and hearing of any objections to such application; and

15 (5) Such other reasonable requirements as shall be deemed necessary or desirable to a
16 proper determination of the application.

17 (c)(1) In the event all conditions necessary for the granting of the certificate have been
18 satisfied, such certificate shall only become effective upon the recording of a written
19 agreement between the condemnor and each real property owner whose real property is
20 within 300 feet of the centerline of the proposed transmission line corridor that the
21 condemnor will pay annually to each such real property owner an amount equal to the ad
22 valorem taxes that are otherwise due with respect to such real property which is within
23 the area specified under this subsection. It shall be the duty of the tax assessor in any
24 county in which such proposed transmission line corridor will be located to prepare a
25 separate assessment on behalf of such real property owners with respect to such real
26 property.

27 (2) Such written agreement shall be recorded by the clerk of the superior court of each
28 county in which such proposed transmission line corridor will be located. A copy of the
29 recorded agreement shall be sent to the Public Service Commission. Upon receipt of all
30 applicable recorded agreements, the Public Service Commission shall certify in writing
31 to all parties that the certificate has become effective.

32 (d) The decision of the Public Service Commission may be reviewed by a judge of the
33 superior court of the county in which the transmission line company has an agent and place
34 of doing business. The review shall be by petition filed within 30 days after the action of
35 the Public Service Commission and shall be determined on the basis of the record before
36 the commission. The action of the Public Service Commission shall be affirmed if
37 supported by substantial evidence."

1 **SECTION 2.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval.

4 **SECTION 3.**

5 All laws and parts of laws in conflict with this Act are repealed.