

SENATE FILE NO. SF0087

Prescriptive easement for electricity delivery.

Sponsored by: Senator(s) Cooper, Anderson, Driskill and
Nethercott and Representative(s) Davis,
Eklund, Larsen, L and Williams

A BILL

for

1 AN ACT relating to property, conveyances and security
2 transactions; establishing prescriptive easements for
3 electricity delivery; providing requirements for the
4 prescriptive easements; specifying uses of the prescriptive
5 easements; providing definitions; specifying applicability;
6 and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 34-1-159 is created to read:

11

12 **34-1-159. Prescriptive easement for electricity**
13 **delivery.**

14

15 (a) As used in this section:

1

2 (i) "Delivery" means the distribution or
3 transmission of electricity;

4

5 (ii) "Electric utility" means any person,
6 including cooperative electric utilities that perform any
7 of the functions specified in W.S. 37-1-101(a)(vi)(C), that
8 is authorized to engage in business in Wyoming and that is
9 primarily engaged in the generation, transmission or sale
10 of electric energy. "Electric utility" shall not include
11 any electric utility owned or operated by a city or town;

12

13 (iii) "Electricity user" means a person or the
14 person's predecessor that receives or received electricity
15 from a public utility or that is or was a member or
16 customer of a public utility;

17

18 (iv) "Public utility" means as defined by W.S.
19 37-1-101(a)(vi);

20

21 (v) "System" means the physical structures,
22 including overhead power lines and underground power lines

1 and appurtenant structures, that convey electricity from a
2 public utility to an electricity user.

3
4 (b) A prescriptive easement for an electric utility's
5 delivery system shall be established if the electric
6 utility has used and maintained the delivery system for a
7 period of not less than five (5) years during which the use
8 has been:

9
10 (i) Continuous and uninterrupted, consistent
11 with the historical and traditional use by the electric
12 utility of the delivery system. A temporary change of use,
13 cessation of use or de-energization for a period not
14 exceeding one (1) continuous year shall not be deemed an
15 interruption under this paragraph;

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17 (ii) Above ground or, if not above ground,
18 clearly marked;

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20 (iii) Without the written consent or permission
21 from the owners of the property over which the prescriptive
22 easement is claimed;

23

1 (iv) In the public interest.

2

3 (c) The holder of a prescriptive easement established
4 under this section:

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6 (i) Shall provide the landowner, at the address
7 listed for the landowner in the county assessor's records,
8 notice in writing of the intent to file a prescriptive
9 easement not less than thirty (30) days before recording
10 the easement. For purposes of this paragraph, notice is
11 effective upon mailing or hand delivery;

12

13 (ii) May record a notice describing the
14 prescriptive easement consistent with the requirements of
15 W.S. 34-1-141 in the office of the county clerk in the
16 county in which the prescriptive easement or a portion
17 thereof is located;

18

19 (iii) May access, use, maintain, replace,
20 rebuild, change or repair the delivery system and
21 surrounding area located within the easement in accordance
22 with law. Maintenance, as used in this section, shall
23 include the right of the holder of the prescriptive

1 easement to remove incompatible vegetation and to
2 temporarily remove infrastructure in or spanning the
3 system, provided that:

4

5 (A) Before the temporary removal for
6 maintenance purposes of infrastructure that a landowner
7 uses for ingress or egress, the holder of the prescriptive
8 easement shall provide reasonable written notice given the
9 extent and estimated time for maintenance but in no case
10 shall notice be provided less than seventy-two (72) hours
11 before any temporary removal;

12

13 (B) Any temporary removal of a landowner's
14 infrastructure for the purpose of delivery system
15 maintenance shall be reasonable and minimize any burden on
16 the landowner. The holder of the prescriptive easement
17 shall replace the landowner's infrastructure in a timely
18 manner in consultation with the landowner or, if
19 replacement is not possible or if the landowner and the
20 holder agree, the holder of the easement may pay for the
21 replacement of infrastructure. The holder shall pay the
22 landowner for any direct monetary damages suffered by the

1 landowner as a result of the holder's access to the
2 prescriptive easement.

3
4 (d) The width of a prescriptive easement established
5 under this section for a delivery system shall be based on
6 the size of the delivery system's physical structures and
7 in accordance with the standards of the electric utility
8 industry and shall:

9
10 (i) Be of a reasonable width sufficient to
11 utilize equipment suitable for the operation and
12 maintenance of the delivery system;

13
14 (ii) Be from the center line of the delivery
15 system, but may vary from each side of the center line as
16 circumstances require to provide for safe and efficient
17 delivery system operation, including consideration for the
18 size of the equipment, placement of equipment or material,
19 topography, height of surrounding vegetation and voltage of
20 the system.

21
22 **Section 2.**

1 (a) Nothing in this act shall be construed to:

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(i) Interfere with, impair or modify any existing easement or property right, including an easement for electricity delivery established by written instrument or other law;

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8 (ii) Alter any rights or duties associated with
9 any existing easement or property right, as established by
10 law;

11

12 (iii) Preclude the acquisition or establishment
13 of a prescriptive easement under existing common-law
14 principles.

15

16 **Section 3.** This act is effective July 1, 2025.

17

18 (END)