

TITLE 62
RAILROADS AND OTHER PUBLIC UTILITIES

CHAPTER 7
TELEGRAPH, TELEPHONE AND ELECTRIC POWER CORPORATIONS

62-701. RIGHT TO USE HIGHWAYS. Telephone corporations may construct or install telephone lines along, beneath the surface of or upon any public road or highway, or along, beneath the surface of, or across any of the waters or lands within this state, and may erect or install poles, posts, piers or abutments for supporting the insulators, wires and other necessary fixtures of their lines in such manner and at such points as not to incommode the public use of the road or highway, or interrupt the navigation of the waters.

[(62-701) R.S., sec. 2700; reen. R.C. & C.L., sec. 2833; C.S., sec. 4832; I.C.A., sec. 60-701; am. 1992, ch. 147, sec. 1, p. 442.]

62-701A. AUTHORITY PRESERVED. (1) As used in this section, "public rights-of-way" shall mean the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway, easement, leasehold interest, or similar property which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining a telecommunications system.

(2) With respect to the installation of its facilities within public rights-of-way, the telecommunications provider shall at all times be subject to the authority of a city, county or highway district. No grant of authority pursuant to this section shall be deemed to waive other rights or requirements of the codes, ordinances or resolutions of a city, county or highway district regarding permits, reasonable fees to be paid, manner of construction, or the like, nor to grant any property interest in the public rights-of-way.

[62-701A, added 1997, ch. 385, sec. 1, p. 1240.]

62-702. INJURY TO COMPANY'S PROPERTY. Any person who injures or destroys, through want of proper care, any necessary or useful fixture of any telegraph or telephone corporation, is liable to the corporation for all damages sustained thereby.

[(62-702) R.S., sec. 2701; reen. R.C. & C.L., sec. 2834; C.S., sec. 4833; I.C.A., sec. 60-702.]

62-703. PENALTY FOR MALICIOUS INJURY. Any person who wilfully or maliciously does any injury to any telegraph or telephone property mentioned in the preceding section, is liable to the corporation for 100 times the amount of actual damages sustained thereby, to be recovered in any court of competent jurisdiction.

[(62-703) R.S., sec. 2702; reen. R.C. & C.L., sec. 2835; C.S., sec. 4834; I.C.A., sec. 60-703.]

62-704. TRANSFER OF RIGHTS AND FRANCHISES. Any telegraph or telephone corporation may, at any time, with the consent of the persons holding two-

thirds of the issued stock of the corporation, sell, lease, assign, transfer or convey any rights, privileges, franchises or property of the corporation, except its corporate franchise.

[(62-704) R.S., sec. 2703; reen. R.C. & C.L., sec. 2836; C.S., sec. 4834; I.C.A., sec. 60-704.]

62-705. RIGHTS OF WAY FOR ELECTRIC POWER COMPANIES AND THE UNITED STATES OF AMERICA OR ANY AGENCY THEREOF. Any person, company or corporation incorporated or that may hereinafter be incorporated under the laws of this state or of any state or territory of the United States, and doing business in this state, the United States of America or any agency thereof, for the purpose of supplying, transmitting, delivering or furnishing electric power or electric energy by wires, cables or any other method or means, shall have and is hereby given the right to erect, construct, maintain and operate all necessary lines upon, along and over any and all public roads, streets and highways, except within the limits of incorporated cities and towns and across the right of way of any railroad or railroad corporation, together with poles, piers, arms, cross-arms, wires, supports, structures and fixtures for the purposes aforesaid, or either of them, in such manner and at such places as not to incommode the public use of the road, highway, street or railroad, or to interrupt the navigation of water, together with the right to erect, construct, maintain and operate upon said electric power line a telephone line to be used only in connection with the said electric energy and power line; provided, that the party exercising the right of way herein and hereby granted shall first apply to the board of county commissioners for permission to construct in the manner provided by law, and to acquire a right of way and, unless such party be the United States of America or an agency thereof, shall give to the county into or through which the right of way herein and hereby granted is exercised, a bond, with surety to be approved by the board of county commissioners, in the sum of \$5000, conditioned to hold the said county harmless from any and all liability on account of the erection, construction, maintenance or operation of the said electric line or lines: provided further, that nothing in this section shall be construed to mean the right to occupy public roads for any railroad or car line of any kind.

[(62-705) 1903, p. 343, sec. 1; reen. R.C. & C.L., sec. 2837; C.S., sec. 4836; I.C.A., sec. 60-705; am. 1945, ch. 37, sec. 1, p. 48.]