

Texas Bar CLE— Land Use Conference — Easements: From Acquisition to Termination

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Aisha Nawaz Hagen
Senior Counsel
Pedernales Electric Cooperative



www.pec.coop



The screenshot shows the homepage of the Pedernales Electric Cooperative (PEC) website. At the top is the PEC logo and navigation links: RESIDENTIAL MEMBERS, COMMERCIAL MEMBERS, ENERGY SERVICES, SAVINGS & CONSERVATION, YOUR COOPERATIVE, LOCAL INVOLVEMENT, and SIGN IN HERE. The main banner features a photo of a lineman next to a white pickup truck with the text 'Lineman Appreciation Day April 18'. To the right of the banner is a blue box with the text 'Thank your PEC linemen! Post to Facebook or Twitter using #PEClinemen and #Thankalineman' and icons for Facebook and Twitter. Below the banner are three sections: 'PAY MY BILL' with a link to log in to the SmartHub, 'WAYS TO SAVE' with a link to learn more about CO-OP Conservation, and 'ENERGY NEWS' with a list of recent news items including 'Apr 07, 2016, PEC invites members to meet 2016 director candidates April 21', 'Apr 01, 2016, PEC to list franchise fees as billing line item starting May 1', 'Mar 25, 2016, PEC announces April cost reduction', and 'Mar 18, 2016, PEC on the Clean Power Plan'.

Easement Types

- Express
 - Easement in gross
 - Easement appurtenant (covenant running with land)
- Prescriptive – open, notorious, actual visible
- Implied
 - Prior Use
 - Necessity *Hamrick v. Ward* 446 S.W.3d 377 (Tex. 2014)
- Estoppel – Imposed by equity because of reliance on a representation

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Express Easement

- Express Easement (conveyance of an estate in land)
 - (1) be reduced to writing;
 - (2) be executed by the grantor or grantor's agent; and
 - (3) be delivered
(Tex. Prop. Code 5.021).
 - (4) express an intent to convey an easement;
 - (5) provide an adequate property description of the servient (burdened) estate.
- Format for grant
 - PEC – Easement (signed only by grantor)
 - Conveyance in a deed
 - Reserved in conveyance on the servient estate
 - Recorded plat of the servient estate
 - Dedication – grant of easement to general public

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Pedernales Transmission and Distribution Easement (1959)

THE STATE OF TEXAS
County of El Paso

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned

for a good and valuable consideration, the receipt of which is hereby acknowledged, have hereby granted unto the PEDERNALES ELECTRIC COOPERATIVE, INC., a corporation, whose principal office is in JOPPIN CITY, TEXAS, and its successors or assigns, the right to enter upon the lands of the undersigned, situated in the County of _____ State of Texas, and more particularly described as follows:

A tract of land located approximately 1/2 miles E-W from the town of Dayton and bounded on the north by land owned by _____ on the south by land owned by _____ on the east by land owned by _____ on the west by land owned by _____

and to plant, construct, operate, repair, maintain, replace and replace thereon and to or upon all wires, poles, or appurtenances of said electric line or system to the extent necessary to keep them clear of said electric line or system and to cut them from time to time all dead, weak, leaning or dangerous trees that are tall enough to strike the wires in falling.

Together with the right of ingress and egress over my [s] estate lands to or from said right-of-way for the purpose of constructing, operating, repairing, maintaining, replacing, inspecting and removing said lines and appurtenances.

In granting this easement it is understood that at said location, only a single pole and appurtenance will be used, and that the location of the pole will be such as to form the least possible interference to farm operations, to land so it does not materially increase the cost of construction.

The undersigned represents that he is the owner of the above described lands and that the said lands are free and clear of all mortgages and liens of whatever character except those listed by the following parties:

None

It is further understood that, whenever necessary, poles used in this easement in the singular shall be constructed in pairs on the ground and that made use in the masculine gender shall be construed to mean in the feminine.

IN WITNESS WHEREOF, the undersigned has set his hand and seal this 10 day of June, 1959.

James J. McLaughlin
Noted and delivered in the presence of:

James J. McLaughlin
James J. McLaughlin

THE STATE OF TEXAS
County of El Paso

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned _____, being a single man, do hereby certify that I am the owner of the above described lands and that the said lands are free and clear of all mortgages and liens of whatever character except those listed by the following parties:

None

It is further understood that, whenever necessary, poles used in this easement in the singular shall be constructed in pairs on the ground and that made use in the masculine gender shall be construed to mean in the feminine.

IN WITNESS WHEREOF, the undersigned has set his hand and seal this 10 day of June, 1959.

James J. McLaughlin
Noted and delivered in the presence of:

James J. McLaughlin
James J. McLaughlin

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How to print Duplex:
Select File --> Print Setup
Change Paper Size to Legal
Properties --> Print Both Sides
Select "Flip on Long Edge"
Select "OK"

UTILITY EASEMENT

Clear

THE STATE OF TEXAS
COUNTY OF _____

KNOW ALL MEN BY THESE PRESENTS:

That _____, by _____, and through _____, in the capacity of _____, and not individually, hereinafter referred to as "Grantor" (whether one or more), for and in consideration of ONE DOLLAR (\$1.00) in hand paid by PEDERNALES ELECTRIC COOPERATIVE, INC. of Johnson City, Texas, has granted, sold, and conveyed and by these presents does grant, sell, and convey unto Pedernales Electric Cooperative, Inc. an easement and right-of-way as hereinafter described for the purpose of an electric distribution line consisting of variable number of wires, and all necessary or desirable appurtenances (including poles made of wood, metal or other materials, telephone and cable television wires, props, guys, and anchors) over, across and upon the following described lands located in _____ County, Texas, to-wit:

Location of right-of-way and easement hereby conveyed shall be limited to a strip of land _____ in width, being _____ feet on each side of the centerline of the facilities as built, with guying easements as needed, or as indicated on Exhibit "A", attached hereto and incorporated herein for all pertinent purposes.

Together with the right of ingress and egress over Grantor's adjacent lands to or from said right-of-way for the purpose of constructing, reconstructing, inspecting, patrolling, hanging new wire on, maintaining and removing said lines and appurtenances; the right to relocate within the limits of said right-of-way; the right to remove from said lands all trees and parts thereof, or other obstructions which endanger or may interfere with the efficiency of said lines or their appurtenances.

Grantor warrants that Grantor is the owner of said property and has the right to execute this easement.

TO HAVE AND TO HOLD the above described easement and rights unto Pedernales Electric Cooperative, Inc. and their successors and assigns, until said easement and rights shall be relinquished.

Grantor, Grantor's heirs and legal representatives do hereby bind themselves to warrant and forever defend all and singular the above described easement and rights unto Pedernales Electric Cooperative, Inc. their successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

WITNESS my hand this _____ day of _____, 20____.

Corporate Name

BY: _____

Utility Certificate No. _____

Work Order No. _____

Property Owner Name (or Successor Name if the Successor)

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Title search: Easements: From Acquisition to Termination

Also available as part of the eCourse

[2016 Land Use eConference](#)

First appeared as part of the conference materials for the
20th Annual Land Use Conference session

"Easements: From Acquisition to Termination"