

Condemnation Cases (Sections 110 through 112)

This document is a summary of the procedural steps and opportunities for public participation when the Commission reviews a condemnation case (also known as “eminent domain”), which is regulated under [30 V.S.A. § 110 – 112](#). Underlined text will link you to more information about that step in the glossary or to an external website. *This document is a general guide for the public. It should not be relied upon for reviewing the applicable statutory and regulatory requirements for such projects. Every project is unique, and this general guide cannot anticipate or explain all issues that may arise in a case. For specific guidance, please refer to the applicable statutes, rules, legal precedent, and legal advice. Please feel free to contact the [Clerk of the Commission](#) if you have questions about the information in this document.*

A condemnation case is the involuntary transfer from a landowner to a utility of private property that the utility needs to provide adequate service to the public, with compensation paid to the landowner.

Typical Procedural Steps

Filing a Petition

Public Comments

Intervention

Scheduling Conference

Discovery

Testimony and Exhibits

Evidentiary Hearing

Stipulation or MOU

Briefs



Decision

Filing. A condemnation proceeding begins when a utility [files](#) a [petition](#) with the Commission asking to condemn a property interest such as an easement or a portion of land. The petition must explain why the company was unable to acquire the property right without condemnation, and why the property is needed.

The next step is for the Commission to issue a “citation” to the landowner, each affected municipality and planning commission, and any other person who has a legal interest in the property. The citation informs the recipients of the time and place for hearing the petition for condemnation, which begins with a [scheduling conference](#).

Public Comments. [Public comments](#) about the proposed condemnation can be [filed with the Commission](#) at any time.

Intervention. You can request to participate as a party in the condemnation by filing a motion to intervene. To make such a request, you must follow the standard procedures for filing a motion to intervene; for more information about these procedures, please see the explanation under [intervention](#) in the glossary.

Scheduling Conference. The purpose of a [scheduling conference](#) is to discuss procedural details and to set the schedule leading to the evidentiary hearing and briefing in the case. Scheduling conferences are open to the public. After the scheduling conference, the Commission will issue an order summarizing the results of the scheduling conference, which generally includes a schedule for the next steps in the case ([scheduling order](#)).

Discovery. Discovery is the process by which the parties to the case exchange information to get a better understanding of what facts they agree on and disagree about. Information produced in discovery is not evidence, unless the Commission admits it into evidence during the evidentiary hearing. Only the parties to the case are permitted to participate in discovery. Parties to a case must follow standard procedures for discovery; for more information about these procedures, please see the explanation under [discovery](#) in the glossary.

Testimony and Exhibits. The parties to a case prepare [testimony](#) and [exhibits](#) that support their position on the case. When a party files testimony and exhibits, it must provide a copy to all the other parties in the case. The deadline for filing testimony and exhibits is usually set in the [scheduling order](#) issued by the Commission after the scheduling conference.

Evidentiary Hearing. At the [evidentiary hearing](#), the Commission will develop an evidentiary record on which to base its decision. This involves admitting the testimony and exhibits and conducting cross-examination. The Department of Public Service is required to present its findings and recommendations on the issue of need for the condemnation. The issue of compensation due for the condemned property interest will be examined, too.

While the public is welcome to attend and observe an evidentiary hearing, only the parties are permitted to participate in the hearing. Members of the public can become parties to a case by intervening following the process described above.

An evidentiary hearing may be conducted by the full Commission, two Commissioners, or a hearing officer. The parties must follow standard procedures for evidentiary hearings. For more information about these procedures, please see the explanation under [evidentiary hearing](#) in the glossary.

Stipulation or Memorandum of Understanding. Two or more of the parties may agree to a settlement, also called a [stipulation](#) or [memorandum of understanding](#) (MOU) that resolves some or all of the disputed issues in a case. Settlements can be entered into at any point in a case and may be submitted to the Commission before or after the evidentiary hearing.

Briefs. The parties (and friends-of-the-court) will have an opportunity to file [briefs](#) after the evidentiary hearing. A brief is a written document that presents a party's legal and factual arguments for consideration by the Commission.

If you are not a party but would like an opportunity to tell the Commission how you think the evidence and law should be applied in the case, you can make a request to file a [friend-of-the-court](#) brief.

Decision. If an evidentiary hearing is held by a hearing officer, a [proposal for decision](#) will be issued by the hearing officer that recommends an outcome to the Commission. The parties to the case will have the opportunity to file written comments on the proposal for decision and ask for [oral argument](#) before the Commission. The Commission will consider the hearing officer's proposal for decision, the parties' comments, and any arguments made at oral argument. The Commission may accept, reject, or modify the proposal for decision. In so doing, the Commission will issue a [final order](#) deciding the case.

If the evidentiary hearing is conducted by the Commission itself, no proposal for decision will be issued. Instead, the Commission will issue a final order following review of the parties' briefs.

If the Commission finds that the utility is entitled to condemn the property or right, the Commission will also determine the compensation to be paid to the property owner.

Final Commission orders are subject to [motions for reconsideration](#) under the Rules of Civil Procedure. Any final decision by the Commission may be appealed to the Vermont Superior Court.

There are also condemnations that relate to utility lines that already exist. Such condemnations are governed by [Section 111\(a\)](#). This statute creates a different, specific process for when a utility line already exists but there is no evidence that an underlying property right was ever conveyed to the utility to put the line in place on the land. While the standards applied in [Section 111\(a\)](#) condemnations are different from ordinary condemnations, the process for participation is the same.