

## Keys to Siting and Building Transmission in Highway Rights-of-Way

Historically, there has not been a significant amount of electric transmission sited and built within highway rights-of-way (ROW) in the United States (U.S.). In some states, the law prohibits placing electric infrastructure in highway ROW. In other states, Department of Transportation (DOT) policies or rules do not allow for the placement of transmission lines within the ROW.

Wisconsin, however, has permitted and built hundreds of miles of electric transmission in highway ROW. Wisconsin state law not only allows siting transmission in the highway ROW, but it is also encouraged. Highway ROW comes second in the prioritized list of options for siting electric transmission.

Every state has its own process for planning, permitting, and building infrastructure. States considering co-locating infrastructure may need to review their procedures and make adjustments to enable an increased level of coordination as well as joint approvals. Below are a few high-level considerations for state policymakers, utilities, transmission developers, and state DOTs.

### Establish statutory authority

States considering co-location of longitudinal communications or transmission infrastructure in the highway ROW may need to establish statutory authority for these uses if such authority does not already exist.

In some states, co-location in the ROW will require a legislative change. Legislative obstacles vary from state to state. In Kentucky, example, utility facilities are generally not permitted to be installed longitudinally within the ROW of the interstate or other fully controlled access

highways. Arkansas has a similar prohibition specifying that Longitudinal utility facilities are not permitted inside the limits of access control of a fully controlled access highway.

In other states, where the statutes are silent on the topic of siting transmission in the highway ROW, changing legislation or regulations to explicitly encourage the relevant agencies to adopt the practice could be helpful.

Wisconsin disallowed co-location until 2003, when the legislature passed [Wisconsin Act 89](#) establishing the following priorities for the siting of new electric transmission facilities:

1. Existing utility corridors
2. Highway and railroad corridors
3. Recreational trails
4. New corridors

The law allows utilities to locate their facilities along and across highway ROW with the written consent of the Wisconsin DOT (WisDOT). WisDOT's [Utility Accommodation Policy](#) specifically notes that electric transmission facilities may be located in the interstate and freeway ROW with specified exceptions.

Two other notable examples are **Maine**, which passed a law designating energy corridors for the development of transmission and other energy infrastructure along specific highway and pipeline rights-of-way, and **New Hampshire**, which passed a law that simultaneously authorized energy infrastructure development, designated energy infrastructure corridors and required the department of transportation to update and revise its utility accommodation manual.

## Establish shared goals and priorities

State DOTs and utilities share a common purpose to provide essential services to the public. Both entities value the safety, reliability, and efficiency of the services they provide. To further the examination of co-locating infrastructure, it would be useful for DOTs and utilities to begin a dialogue by identifying common ground between them: service to the public.

States are now grappling with the challenges posed by the coming electrification of transportation and the task of building a charging infrastructure. Engaging in discussions about shared values, objectives and priorities will help each better understand the other and contribute to a fuller review of the opportunities for collocating infrastructure.

## Increase interagency coordination and building trust

In Wisconsin, a [Cooperative Agreement](#) between the Public Service Commission of Wisconsin (PSCW) and WisDOT provides the necessary ground rules for the collaboration, beginning with the acknowledgement that co-location is allowed under state law. The agreement defines the planning process, coordination between the parties, and a process for resolving differences.

A key factor contributing to the efficient, cost effective, and successful siting of transmission infrastructure in highway ROW in Wisconsin is the trusting, collaborative relationship between the utilities and DOT.

In Wisconsin, when considering highway ROW for a potential transmission project, the transmission utility engages the DOT early in the process, prior to any public meetings. The two organizations discuss:

- Project concept
- Potential alignments with highways
- Project timing
- WisDOT utility permitting and accommodation requirements

As Wisconsin has found, communicating early and often about potential projects is critical to project success.

Furthermore, when proposing a transmission line route utilizing DOT ROW, the utility must provide a Constructability Report as part of the application to the PSCW. The utility drafts and submits the Report to the DOT for review and comment prior to submitting its transmission line application to the PSCW. The Report typically includes a discussion of construction

practices, traffic management plans, maintenance plans, and roles and responsibilities of the utility as well as the DOT.

## Consider sharing costs

One of the potential barriers to co-location is the cost burden for relocating utilities. In Minnesota, MnDOT is responsible for all utility relocation costs located in the interstate ROW. The Minnesota DOT does not currently charge permit fees or utility license fees for use of its ROW. As a result, co-location poses a financial concern for the DOT, especially for projects with expensive infrastructure (e.g., electric transmission).

Conversely, in Wisconsin the utility is responsible for the cost of moving their facilities if they are within the highway ROW. In addition, the utility has to pay a license fee to the DOT in addition to fees for trees removed as a result of project construction. States may want to consider WisDOT's approach.

## Sources

- [Utilities & Rail Guidance Manual](#) (Kentucky)
- [Utility Accommodation Policy](#) (Arkansas)

### **About NextGen Highways**

*The NextGen Highways is a collaborative initiative promoting the use of highways and other existing rights-of-way as infrastructure corridors where electric and communications infrastructure are strategically and safely co-located in existing highway right-of-way. Learn more at <http://www.NextGenHighways.org>*