WEST VIRGINIA CODE: §54-1-9

§54-1-9. Crossing or alteration of course of works of another entity; civil action.

If any entity having the power of eminent domain under other provisions of this article including any railroad company, canal company, company organized for the purpose of transporting oil or natural or manufactured gas, or both, by means of pipeline, company organized for the purpose of transporting coal and its derivatives and all mixtures and combinations thereof with any substance by means of pipes or otherwise, telephone or telegraph company, company operating an electric transmission line, private corporation or public corporation operating a system of pipelines for transporting water, private corporation or public corporation operating a sewer system for public use, the West Virginia department of highways, or any county court, deems it necessary in the construction or relocation of its works, or any part thereof, to cross any other railroad, canal, sewer line, pipeline, any state or other public road at grade or otherwise, telephone or telegraph line or electric transmission line, such crossing may be made provided said works be so constructed as not to impede the passage or transportation of persons, property, commodities or sewage along, over or through the same. If any such company, private corporation, public corporation, West Virginia department of highways or county court desire that the course of any other railroad, canal, sewer line, pipeline, state, or other public road, telephone or telegraph line, electric transmission line, or any stream which is not a public highway, be altered to avoid the necessity of any crossing, or of frequent crossings, or to facilitate the crossing thereof, or the construction of a parallel work, the alteration may be made in such manner as may be agreed between the said party desiring such alteration and the owner of such other facility or land to be affected thereby. In case the parties interested fail to agree upon such crossing or alteration as is desired, said party desiring such crossing or alteration may bring a civil action, and in such action the court may, in a proper case, order that any proper crossing, or alteration, may be made upon payment of just compensation for the property or interest in property to be taken and upon payment of damages, if any, to the residue thereof beyond all benefits to be derived thereby. Following said civil action, and if the court order such crossing or alteration may be made, said party desiring such crossing or alteration may thereupon proceed under article two of this chapter to obtain the right to make such crossing or alteration and to have determined the amount of compensation and damages owing as a result thereof.

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