

# Investigating Railroad Crossing Fees

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## This may become a concern in New York, Read on:

If you are concerned about the rising costs of railroad crossing fees and you want to do something about it, now is the time to come together as a group and formulate a clear path forward to stop this injustice.

Railroad crossing permit fees are a concern for the utility industry and the annual rental fees for these crossings installations continue to rise. Over the last six (6) years, the fees charged by the railroad industry have skyrocketed to unbelievable levels. A utility company in Alabama has experienced increases for annual lease agreements from \$900.00 to \$18,000.00 in one year. Some potential utility customers are not able to obtain basic utility service due to the outrageous expense of crossing a railroad right of way. It is wrong for anyone to be denied basic utility services because of a railroad right of way.

The utility industry must develop a clear path forward to address these railroad crossing fees. If this was another type of expense, such as fuel, material, etc., every utility would be seeking alternate sources to compete with these rising costs. Plastic pipe was developed as an alternative to the high cost of steel pipe. Service vehicles have been downsized to reduce fuel costs. Increased technology has been installed to offset increased labor costs. Why is the railroad crossing fee expense not investigated and addressed by the utilities?

## Very simply – *TIME*.

Most, if not all, utility installations are installed in very short time windows. The utility company normally does not have a large window of time to deal with the railroad crossing permits and the legal expense to question the permitting of the installation. The normal attitude by most utilities has been pay the fee and pass it along to the customers. However, the US economy at this time can no longer absorb this high cost of doing business as usual. Secondly, with customers searching for every way possible to save money, this additional expense could be a determining factor in customer retention or customer turnover.

In reviewing alternatives, some of the questions raised are why is there a charge for crossing a railroad at a street intersection? If the street is public property, should there be a charge for this use? If the railroad states that they own the land, have they completed a title search to document their ownership in order to validate their fee structure? What is the value of the land in question? Would it be better for the utility to condemn the land and provide the railroad with a right of way for their continued use? What do the US Government regulators of the railroad industry have to say about this type of condemnation option? Are all the utilities being charged the same amount for each individual crossing? Many questions need to be addressed.

We believe the best alternative for the utility industry is to come together as a group and investigate this problem on a national level. First and foremost, the question needs to be answered, why is there a charge for a railroad crossing? In most cases, utility crossings are installed at street intersections. Why should a utility have to pay for the use of a street intersection? If the railroad claims to own the land at the street intersection, what would be the value of this land? With a street installed across this property, the value would be extremely low. Therefore, if the land was condemned, the value could be as low as \$12.00 for a ten (10) foot wide and one hundred (100') foot long strip of land. Why would a utility pay \$18,000.00 for a strip of land with a value of around \$12.00?

Dave Thomas, with Eagle 1 Resources, is working with a group of utilities to form a project group for the expressed purpose of developing a plan to address railroad crossing fees / railroad lease agreements on a national level. The goal of this group will be to eliminate railroad crossing fees nationwide and structure a clear path forward for future utility installations. This project group will also investigate existing railroad lease agreements in the utility marketplace. If these existing lease agreements are determined to be discriminatory in nature or otherwise unlawful or unenforceable, we will also seek reimbursement for the utility group members affected by the existing lease agreements.

This project group desires to “Drive the Bus” as the utility industry investigates and challenges the railroad industry in addressing railroad crossing fees and

annual railroad lease agreements. The railroad industry is the 800 pound Gorilla. If one or two utilities attempt to address this railroad crossing fee issue, they will lose. However, if the utility industry bands together as a group, they will have a significantly higher chance of success. There is strength in numbers, especially in a fight with the railroad industry. If you decide not to become part of this project support group and you say that you will let someone else fight this battle, please remember; railroad crossing fees will continue to rise. The railroad may only deal with the members of this project group and require a confidentially agreement with the project group members. If that is the case, the project group members may be the only utilities that will have a reduction or elimination in fees. The railroad industry may not be required to provide anything to a utility outside the group membership.

A questionnaire has been developed in order to model a profile of the effects of railroad crossing fees on the utility customers. This questionnaire addresses areas such as: the ability to provide utility service to customers, fees creating a hardship on existing utility customers, recent increases in annual fees, and fair and equitable treatment for all utilities. This questionnaire has been prepared to

develop a profile of how these railroad crossing fees are affecting the utility industry. ●

If you have questions or if you would like to join this utility project group, please contact;

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