



Land Use Operational Policy Utilities

NAME OF POLICY:	Utilities
APPLICATION:	Applies to all Crown land used for linear public and private utilities, including aquatic land within Provincial Forests and land subject to regulation under the <i>Park Act</i> .
ISSUANCE:	Assistant Deputy Minister, Rural Development, Lands and Innovation
IMPLEMENTATION:	Ministry of Forests, Lands, Natural Resource Operations and Rural Development
REFERENCES:	<i>Land Act</i> (Ch. 245, R.S.B.C., 1996) <i>Hydro and Power Authority Act</i> (Ch. 212, R.S.B.C., 1996) <i>Land Title Act</i> (Ch. 250, R.S.B.C., 1996) <i>Utilities Commission Act</i> (Ch. 473, R.S.B.C., 1996) <i>Oil and Gas Activities Act</i> (Ch. 36, S.B.C., 2008, s. 200) <i>Park Act</i> (Ch. 344, R.S.B.C., 1996) <i>Forest Act</i> (Ch. 157, R.S.B.C., 1996) <i>National Energy Board Act</i> (c. N-7, R.S.C., 1985)
RELATIONSHIP TO PREVIOUS POLICY:	This policy replaces the previous Utilities policy dated June 1, 2011.

Dave Peterson, ADM
Rural Development, Lands and Innovation
Ministry of Forests, Lands, Natural Resource
Operations and Rural Development

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1. PURPOSE

This policy applies to this disposition of Crown land for public and private utility development, including aquatic land.

Where appropriate, the policy will be applicable to tenures issued pursuant to the *Park Act* for public and private utilities uses.

This policy applies to linear projects regulated under the *Environmental Assessment Act* and the *Utilities Commission Act*.

This policy does not apply to oil and gas projects covered under the Oil and Gas Policy; nor does it apply to communication sites, except where provision is made for joint powerline/communication site tenures under the Communication Sites policy.

This policy does not apply to utility developments within roadway allowances and rights of way administered by the Ministry responsible for the *Transportation Act* (see agreement, "Utility Line Administration within Road Allowances").

This policy does not apply to utility developments for non-forest uses within Ministry responsible for the *Forest Act* forest road rights of way.

A utility includes, but is not limited to: oil and gas pipelines, distribution line, flow line, and transit line; sewer and water system; industrial outfall, electrical transmission and distribution line; telephone, cable TV or linear telecommunication line.

2. PRINCIPLES AND GOALS

For information on Crown land allocation principles see [Crown Land Allocation Principles](#).

3. DEFINITIONS AND ABBREVIATIONS

For a glossary of definitions and abbreviations see [Glossary and Abbreviations](#).

4. APPLICANT ELIGIBILITY

For standard policy information on eligibility see [Eligibility and Restrictions](#).

5. FORM OF LAND ALLOCATION

For standard policy information on forms of allocation see [Form of Crown Land Allocation](#).

Refer to Appendix 1 for a summary of the forms and terms of Crown land allocation available for utilities.

If you wish to use Crown land for a short term, low impact activity you may not need to apply for tenure, you may be authorized under the [Permissions Policy](#).

5.1 Temporary Licence

The maximum term for a temporary licence is 2 years.

5.2 Licence of Occupation

The maximum term for a licence of occupation is 10 years.

A licence of occupation may be given:

- for a short term temporary use (limited to a 6-year term);
- for local service power, telephone or communication lines in remote areas where there is a low probability of land use change and where precise surveyed boundaries are not required.
- to authorize entry, occupation, and construction of the utility as an interim tenure pending completion of survey requirements and issuance of a statutory right of way.

At the discretion of the Authorizing Agency, a term of up to 30 years may be offered for local service power, telephone or communication lines in locations where no other development is anticipated.

5.3 Statutory Right of Way

A statutory right of way is the standard tenure for all linear utility uses including oil, gas, water, or electrical transmission, distribution, transit or feeder lines.

A statutory right of way is to be used to authorize utility uses over land already under lease or licence tenure.

A statutory right of way may also be used for major pipeline projects where financing requirements dictate, subject to completion of survey within 18 months.

5.3.1 Easement

An easement is issued in those cases where a designated dominant tenement precludes issuance of a statutory right of way. Term of tenure is as per statutory right of way.

6. PRICING POLICY

For information on pricing see the [Pricing Policy](#).

For information on application and service fees see the [Crown Land Fees Procedure](#).

7. ALLOCATION PROCESSES

For detailed standard information on allocation processes see [Allocation Procedures - Applications](#).

Additional and special requirements for utilities allocations are:

7.1 Applications

7.1.1 Receipt of Applications

Where a public or private utility easement or right of way runs adjacent to or intersects a public road, the width of the road allowance should be obtained from the Ministry responsible for the *Transportation Act*.

7.1.2 Application Package

General Provisions

Utility developments on Crown land shall not unreasonably interfere with the natural drainage of those lands, and shall make provision for remedial measures acceptable to the Authorizing Agency where such interference is anticipated.

Utility developments on aquatic lands shall not unreasonably interfere with the public's right of access to and use of the foreshore and the public waterway.

The right of way documents for public and private utilities are to be issued subject to the prior rights of third parties.

The right of way and licence documents for electrical transmission and distribution lines may authorize use of the land for joint-use telecommunication lines and aircraft warning buoy purposes.

Consideration should be given to the possibility of multiple use of right of way corridors in order to avoid duplication and to minimize impact.

Required Consent

An application for a statutory right of way or easement should include the written consent of any Crown lessee, licensee or statutory right of way holder across whose tenure the development is to be built, in addition to consents from various agencies as appropriate.

Applications for individual private lines are required to include with their applications written confirmation that the utility supplying power to the area does not wish to apply for the tenure.

7.1.3 Consent Forms

The following consents may be required to be provided by the applicant during the course of adjudication:

- the consents of all lessees, licensees, right of way and Certificate of Purchase holders;
- approval from the Ministry responsible for the Transportation Act for the crossing of a pipeline already in place under the authority of the *Oil and Gas Activities Act*;
- approval from the Ministry responsible for the Transportation Act for an easement over a public road;
- approval from the National Energy Board for the crossing of a pipeline authorized pursuant to the *National Energy Board Act*;
- approval from the Agricultural Land Commission for a utility line crossing land located in the Agricultural Land Reserve.

7.1.4 Registration of Statutory Rights of Way under the *Land Title Act*

All statutory rights of way should be registered under the *Land Title Act* in a Land Title Office.

Holders of statutory rights of way should be informed that only surveyed statutory rights of way shown on plans filed under the provisions of the *Land Title Act* are registerable.

7.1.5 Environmental Tenure Provisions and Schedules

Tenure terms and conditions may be selected from standard tenure document template provisions or in some cases they may be drafted to address specific issues identified through the processing of an application. For more details see the [Tenure Administration Procedure](#).

8. TENURE ADMINISTRATION

For standard tenure administration information see the [Tenure Administration Procedure](#).

Additional and special requirements for utilities allocations are:

8.1 Insurance

A tenure holder is generally required to purchase, and is responsible for maintaining during the term of the tenure, a minimum level of public liability insurance (general liability or, for non-commercial activities, homeowner's insurance) specified in the tenure document.

8.2 Security/Financial Guarantee

Surety (performance) bonds are not required for statutory rights of way issued to major utility companies or other corporate clients having multiple tenures in good standing as determined by the Authorizing Agency.

The Authorizing Agency may determine whether to require a surety bond for licence of occupation tenures, and may decide the amount of such a bond.

Companies and subsidiaries holding a number of tenures may arrange a single blanket amount to cover all such tenures.

8.3 Assignment and Sub-Tenuring

All tenure holders, including major utility companies, are required to provide tax certificates for assignments and abandonments.

8.4 Tenure Replacement

All tenure holders, except major utility companies, are required to provide tax certificates for tenure replacements.

9. VARIANCE

Variances to this policy must be completed in accordance with the [Policy Variance Procedure](#).

Appendix 1. Utilities Policy Summary

TENURE	TERM	METHOD OF DISPOSITION
Temporary Licence	2 years	Application
Licence of Occupation (standard)	10 years normal term	Application
Licence of Occupation (Interim pending issuance of Right of Way or Easement)	6 years normal term	Interim tenure issued in response to Right of Way application
Statutory Right of Way and/or Easement	Normally issued for so long as required	Application