

**§ 159B-33. Eminent domain.**

Municipalities participating in a joint project and joint agencies shall possess the power of eminent domain to the extent and in the same manner and under the same laws as municipalities pursuant to Chapter 40A of the General Statutes of North Carolina; provided, however, that a municipality or joint agency exercising the power of eminent domain for a purpose authorized by this Chapter shall have no power to condemn an existing facility used for the generation, transmission or distribution of electric power and energy; provided, further, that the North Carolina Utilities Commission shall have the power and authority to order that the lines and rights-of-way of any public utility or electric membership corporation, municipalities participating in a joint project or any joint agency may be crossed by any municipalities participating in a joint project or any joint agency or that the lines of any municipalities participating in a joint project or any joint agency may be crossed by any public utility or electric membership corporation pursuant to the provisions of G.S. 62-39; provided, further, when any municipalities participating in a joint project, or any joint agency, proposes to condemn the lands or rights-of-way of any public utility, electric membership corporation, municipalities participating in a joint project or any joint agency, or any public utility or electric membership corporation proposes to condemn the lands or rights-of-way of any municipalities participating in a joint project or any joint agency, not then used for the generation, transmission or distribution of electric power and energy but held for future use or development, the party desiring to condemn shall file a petition with the North Carolina Utilities Commission requesting authority to condemn such lands or rights-of-way. Upon such petition, the North Carolina Utilities Commission shall have the power and authority, after notice and hearing, to order that such lands or rights-of-way, or parts thereof, may be condemned, and its order shall be final, subject to appeal as provided in this section. In all such cases in which the Commission permits condemnation and when the parties affected cannot agree upon the damages to be paid for the lands or rights-of-way to be condemned, it shall be the duty of the Commission to fix the damages, if any, to be paid in such amounts as may be just and equitable. Any party shall have the right of appeal from any final order or decision or determination of the North Carolina Utilities Commission as to matters of crossings and condemnation of property held for future use or development pursuant to the provisions of Article 5 of Chapter 62 of the General Statutes of North Carolina. (1975, c. 186, s. 1; 1981, c. 919, s. 27.)