

## **DEMCO BOARD POLICY**

**Subject: Encroachments on Transmission & Distribution Easements/ROW**

Approved: August 18, 1980

Revised: July 17, 1989; February 15, 2001; January 27, 2005; June 19, 2008; February 28, 2013; March 19, 2015, November 17, 2022

*Note: Refer to **Definitions** section beginning on Page 3 as needed for clarification of terms throughout this document.*

This policy supersedes the following document:

- Board Policy 406.006 Facilities in Proximity to Electric Lines

### **Objective**

DEMCO must preserve and protect its Right-of-Way (ROW) to ensure the cooperative is able to provide safe and reliable electricity to its members and the public. In addition, DEMCO must be able to access the ROW effectively and efficiently for the purpose of construction, operation, maintenance and repair of its facilities and equipment. Any encroachment that interferes with DEMCO's easement rights must be addressed immediately.

### **Policy**

No new service shall be connected to any structure, that is constructed within the limits of, or placed upon the cooperative's ROW. In the event DEMCO's facilities need to be relocated due to an encroachment, DEMCO employees shall follow Board Policy "Line Extensions or Relocations of Electrical Facilities". It is DEMCO's policy that the party creating or requesting the encroachment shall pay for the relocation of the line including, but not limited to, the cost of ROW clearing and any other associated expenses. In the event the party that created the encroachment fails or refuses to pay for the relocation of the line, DEMCO may seek legal recourse and disconnect service at the location until compliance is met.

### ***No Buildings or Structures***

Most DEMCO ROW easements prohibit the erection or construction of any buildings or structures within the limits of the ROW. If this specific language is contained in an easement, DEMCO will strictly enforce this prohibition. If the easement does not contain a specific language regarding the prohibition of buildings or structures in the ROW, more often than none, the structures will conflict with DEMCO's prescribed rights and regulations and will therefore be prohibited.

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***Encroachment Request/Letter of No Objection***

A proactive identification of and taking immediate action in addressing encroachments keeps the ROW clear of prohibited obstructions and activities. Before a landowner/member makes any change to the topography of, or constructs any improvements on an easement, the property owner/member must submit an encroachment request to DEMCO. Once submitted, DEMCO's Manager, Lands and ROW will review the request, the easement, operational and legal requirements, as well as any other applicable documents. If permission is granted, DEMCO's Manager of Lands and ROW will issue a written letter of no objection which will contain certain conditions by which the encroachment will be permitted within the ROW. DEMCO does not issue or acknowledge verbal consents of servitude encroachment approval and any claim of a verbal consent will not be honored. The Manager of Lands and ROW is the only DEMCO employee authorized to issue a written letter of no objection on behalf of DEMCO. Generally, letters of no objection are non-transferrable and are revocable at the sole discretion of DEMCO.

***Compliance with National Electrical Safety Code and all Other Applicable Laws***

All uses within an easement must comply with the National Electrical Safety Code (NESC). The NESC specifies minimum horizontal and vertical clearance requirements for overhead and underground facilities. These clearance requirements are mandatory and must be maintained by the cooperative. Note that a use or improvement within the limits of the ROW does not have to be an NESC violation to constitute an encroachment. However, all NESC violations within the ROW are encroachments and must be corrected or removed immediately.

Note that any activity or improvement in the ROW must also comply with all other applicable laws, including by way of example and not limitation, (a) laws and regulations promulgated by the Occupational Safety and Health Administration (OSHA), (b) the National Electrical Code, (c) building codes, and (d) zoning ordinances.

Any DEMCO employee who discovers a violation of this policy shall immediately create a Customer Repair Letter service order being sure to include at a minimum: 1) detailed notes about the encroachment, 2) type of encroachment, 3) exact location of the encroachment, 4) pictures of the encroachment, 5) whether any NESC violations exist, and 6) if immediate safeguards need to be put into place by DEMCO to protect the member or the general public.

***Responsibility***

The Manager, Lands and ROW, the Manager, Operations, District Line Supervisors, the Safety Department, the Chief Engineering & Operations Officer, and the CEO/General Manager are responsible for seeing that this policy is adhered to.

The Manager, Lands and ROW is responsible for updating this policy as needed.

The Manager, Quality and Compliance shall have the authority to audit all aspects of this policy.

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**Definitions**

**Easements:** A legal right granted by a landowner to another person or entity to use a portion of their property for a specific purpose. Easements allow ingress and egress across adjacent lands to and from the ROW which allows the cooperative to construct, operate, maintain, repair, and replace electrical facilities for the transmission and distribution of electricity.

**Encroachments:** Any use of the property that is not permitted by the terms of the easement.

**Facilities:** Any and all equipment owned and installed by DEMCO on an easement including, by way of example and not limitation, lines, poles, guy wires, anchors, transformers, pedestals, and the like.

**Right of Way:** Strips of land in which DEMCO's transmission and distribution lines are located.

DATE November 17, 2022

/s/Daniel Berthelot, President

/s/Dennis R. Lott, Secretary