

LIBER 140 PAGE 321

Recorded June 26 1958  
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Paul S. Janke Reg. of Deeds

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STATE OF MICHIGAN

In the Probate Court for the County of Presque Isle

In the Matter of the Petition of Consumers Power Company, a corporation, for the Condemnation of Certain Interests in Lands in Presque Isle County, Michigan for the Purpose of Transmitting, Distributing, Selling and Supplying Electric Energy for Public Use

No. 3287

ORDER CONFIRMING REPORT OF COMMISSIONERS

At a session of said Court held in the Probate Office in the City of Rogers City in said County on the 26th day of June, 1958.

Present: Honorable Joseph P. Buza, Judge of Probate

This matter came on to be heard on the motion of the petitioner to confirm the report of the commissioners, Edward M. Schultz, Arthur A. Nagel and E. L. Porter, appointed by this Court to determine the necessity of acquiring and using the easements and interests in the parcels of land described in said petition for the purposes named therein, and to ascertain and determine the just compensation to be paid therefor by petitioner to the owners thereof or persons otherwise interested in said premises, which report of commissioners dated June 10, 1958 is on file herein, and

It appearing to the Court that notice of the time and place of hearing on said Motion to Confirm Report of Commissioners was duly given to each of the owners of the parcels described in said petition, as shown by proof of service of Order Setting Date for Hearing on Motion to Confirm Report of Commissioners, on file herein, and

It appearing that said commissioners have met together as provided for by order of this Court and that said commissioners have in every respect proceeded in accordance with the order heretofore made by this Court and the laws of this state in such case made and provided and have honestly and impartially executed the trust imposed on them, and no valid objections or exceptions having been made to said report or to any of the matters therein

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SECTION 7, T34N. R6E

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or herein, and

The Court being fully advised in the premises, on motion of William F. Knapp, attorney for petitioner,

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It is Ordered, Adjudged and Decreed, that said report of commissioners and all proceedings and acts of said commissioners as shown by their said report be and the same are hereby approved and in all respects confirmed.

It further appearing that petitioner has on this day deposited in the Probate Court the amounts found by said report of commissioners as just compensation and damages to be paid by petitioner to the owners of the various parcels of land described in said petition, for the taking, acquiring and using of the easements and interests in land hereinafter described,

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It is Ordered, Adjudged and Decreed that the title and right to possession and use of the easements and interests in land hereinafter described are hereby vested in petitioner.

The interests in the parcels of land hereinafter described acquired by petitioner are as follows:

The easement and right to erect, lay and maintain lines consisting of poles, wires, cables, conduits and other fixtures and appurtenances for the purpose of transmitting and distributing electricity and/or conducting a communication business on, over, under and across the parcels of land hereinafter described, including all public highways upon or adjacent to said parcels of land; the route to be taken by said lines of poles, wires, cables and conduits across, over and under said land being more specifically described with reference to each described parcel.

With full right and authority to Consumers Power Company, its successors, licensees, lessees or assigns, and its and their agents and employees to enter at all times upon said premises for the purpose of constructing, repairing, removing, replacing, patrolling, improving, enlarging and maintaining such cables, conduits and poles and other supports with all necessary braces, guys, anchors, manholes and transformers and stringing thereon and supporting and suspending therefrom, lines of wire, cables or other conductors for the transmission of electrical energy and/or communication and to trim, remove, destroy or otherwise control all trees and brush on a strip of land ninety (90) feet in width, being forty-five (45) feet on each side of (and measured at right angles to) the center line of said electric transmission line, also the right to remove all trees greater than forty-five (45) feet in height standing or growing on a strip of land one hundred forty (140) feet in width, being seventy (70) feet on each side of (and measured at right angles to) the center line of said transmission line. It is expressly understood that no buildings or other structures will be placed under such wires and/or over such cables without the written consent of Consumers Power Company. It is expressly understood that nonuse or a limited use of this

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easement by Consumers Power Company shall not prevent Consumers Power Company from later making use of the easement to the full extent herein authorized. Consumers Power Company, its successors and assigns, shall pay all damage to crops and trees in erecting and maintaining said lines of poles and wires, which damage shall be paid to the owner, or persons entitled to damages, at the time of such erection or maintenance.

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PARCEL ONE

Description

The South one-half ( $S\frac{1}{2}$ ) of the Southeast one-quarter ( $SE\frac{1}{4}$ ) of Section seven (7), Township thirty-four (34) North, Range six (6) East, Pulawski Township, Presque Isle County, Michigan.

238-D103-1

The route to be taken by said lines of poles, wires, cables and conduits across, over and under said land being more specifically described as follows: Beginning on the East line of said Section 7 at a point 160 feet Northerly (measured at right angles) from the center line of Highway US-23, running thence Northwesterly 2,404 feet to a point 315 feet East (measured at right angles) from the North and South quarter line of said section and 150 feet Northerly (measured at right angles) from the center line of said highway, thence Northwesterly to a point on said North and South quarter line 173.5 feet South of the South eighth line of said section.

Owned by: Anthony Reisner and  
Ruth Reisner, his wife  
R.F.D.  
Hawks, Michigan

PARCEL TWO

Description

The Northwest one-quarter ( $NW\frac{1}{4}$ ) of the Southwest one-quarter ( $SW\frac{1}{4}$ ) of Section seven (7), Township thirty-four (34) North, Range six (6) East, Pulawski Township, Presque Isle County, Michigan.

238-L-D103-3

The route to be taken by said lines of poles, wires, cables and conduits across, over and under said land being more specifically described as follows: Beginning on the South eighth line of said Section 7 at a point 207.5 feet West of the North and South quarter line of said section, running thence Northwesterly 2,251 feet to a point 330 feet Northerly (measured at right angles) from the center line of Highway US-23, thence Northwesterly 1,097 feet to the West line of said section at a point 514 feet North (measured along said section line) from the center line of said highway. Also the right to construct and maintain a patrol road not to exceed 20 feet in width lying adjacent to said electric transmission line where necessary to the construction, patrolling and maintenance of said line.

Owned by: Paulina Schaudt  
Rogers City, Michigan

Parties in Possession Elvin Schaudt and  
as Contract Buyers: Ella Schaudt, his wife  
R.F.D.  
Rogers City, Michigan

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PARCEL THREE

Description

238-6-D103-3

The Northeast one-quarter ( $NE\frac{1}{4}$ ) of the Southwest one-quarter ( $SW\frac{1}{4}$ ) and the Southwest one-quarter ( $SW\frac{1}{4}$ ) of the Northwest one-quarter ( $NW\frac{1}{4}$ ) of Section seven (7), Township thirty-four (34) North, Range six (6) East, Pulawski Township, Presque Isle County, Michigan.

The route to be taken by said lines of poles, wires, cables and conduits across, over and under said land being more specifically described as follows: Beginning on the South eighth line of said Section 7 at a point 207.5 feet West of the North and South quarter line of said section, running thence Northwesterly 2,251 feet to a point 330 feet Northerly (measured at right angles) from the center line of Highway US-23, thence Northwesterly 1,097 feet to the West line of said section at a point 514 feet North (measured along said section line) from the center line of said highway. Also the right to construct and maintain a patrol road not to exceed 20 feet in width lying adjacent to said electric transmission line where necessary to the construction, patrolling and maintenance of said line.

Owned by: Paulina Schaudt  
Rogers City, Michigan

Parties in Possession Elvin Schaudt and  
as Contract Buyers: Elia Schaudt, his wife  
R.F.D.  
Rogers City, Michigan

PARCEL FOUR

Description

238.1-D103-1

The South one-half ( $S\frac{1}{2}$ ) of the Southeast one-quarter ( $SE\frac{1}{4}$ ) and the Southeast one-quarter ( $SE\frac{1}{4}$ ) of the Southwest one-quarter ( $SW\frac{1}{4}$ ) of Section thirteen (13), Township thirty-four (34) North, Range six (6) East, Pulawski Township, Presque Isle County, Michigan.

The route to be taken by said lines of poles, wires, cables and conduits across, over and under said land being more specifically described as follows: Beginning on the East line of said land at a point 332 feet North (measured at right angles) from the center line of Highway US-23, running thence West to the West line of said land at a point 335 feet North (measured at right angles) from the center line of said highway. Also the right to construct and maintain a patrol road not to exceed 20 feet in width lying adjacent to said electric transmission line where necessary to the construction, patrolling and maintenance of said line.

Owned by: August Eble and Bertha  
Marie Eble, his wife  
3552 West 61st Street  
Cleveland 2, Ohio

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It is further Ordered, Adjudged and Decreed that the above-described easement rights shall be subject to the limitations agreed upon the record by the parties, which limitations as set forth in the Report of Commissioners and hereby adopted and confirmed are as follows:

"4. It was stipulated and agreed by petitioner that its electric transmission line facilities across the parcels hereinafter described would be constructed and thereafter maintained with wood poles and appurtenances, and that steel or metal structures and structures of a different type would not thereafter be substituted for such wood poles, without the landowners' written consent.

"5. By stipulation on the record it has been agreed with respect to Parcels Two and Three owned by Paulina Schaudt and Elvin Schaudt and Ella Schaudt, his wife, that if the transmission line as constructed shall interfere with the future removal of gravel from said land, petitioner will, at its expense, raise, or otherwise adjust said transmission line on the same center line as constructed, in order to accommodate said gravel removal operations.

"6. It has also been agreed by stipulation on the record with respect to Parcel Six owned by John Lamb and Herbert H. Lamb, that if it shall be necessary, in the construction of said transmission line, to remove certain fruit trees located on said land, said trees shall be paid for specially at the fair market value of said trees.

"7. It was further stipulated on the record with respect to Parcel Eight owned by Sarah M. Frell and Howard Viegelahn and Kathleen Viegelahn, his wife, that a certain outgrowth of trees located in the Northeast corner of the Northeast one-quarter of the Northwest one-quarter of Section 12, Township 34 North, Range 5 East, has been maintained at that location in order to remedy an erosion problem on said land, and petitioner has stipulated and agreed that upon the removal of said trees it will plant on said area such grasses, bushes or small trees as may be required to prevent further erosion of said land."

It is further Ordered, Adjudged and Decreed that in conformance with the Report of Commissioners, the compensation to be paid by petitioner to Paulina Schaudt and Elvin Schaudt and Ella Schaudt, his wife, on account of their ownership of Parcels Two and Three, as described above; to August Eble and Bertha Marie Eble, his wife, on account of their ownership of Parcel Four as described above; to Leon S. Liske and Helen Liske, his wife, on account of their ownership of Parcel Five, as described above; to Sarah M. Frell and Howard Viegelahn and Kathleen Viegelahn, his wife, on account of their ownership of Parcel Eight, as described above; and to Louis F. Hilla and Veronica Hilla, his wife, on account of their ownership of Parcel Nine, as described above, shall include full payment for all damages resulting from the cutting of trees on said parcels.

238.6-D103-3  
238.3-D103-1  
238.5-D103-1

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It is further Ordered, Adjudged and Decreed that petitioner shall cause a certified copy of this order to be recorded in the office of the Register of Deeds for Presque Isle County, Michigan, the recording thereof to be indexed under the names of Anthony Reisner and Ruth Reisner, his wife, as grantors of the interests in the parcel described above as Parcel One; under the names of Paulina Schaudt and Elvin Schaudt and Ella Schaudt, his wife, as grantors of the interests in the parcels described above as Parcels Two and Three; under the names of August Eble and Bertha Marie Eble, his wife, as grantors of the interests in the parcel described above as Parcel Four; under the names of Leon S. Liske and Helen Liske, his wife, as grantors of the interests in the parcel described above as Parcel Five; under the names of John Lamb and Herbert H. Lamb as grantors of the interests in the parcel described above as Parcel Six; under the name of John Erke as grantor of the interests in the parcel described above as Parcel Seven; under the names of Sarah M. Prell and Howard Viegelahn and Kathleen Viegelahn, his wife, as grantors of the interests in the parcel described above as Parcel Eight; and under the names of Louis F. Hilla and Veronica Hilla, his wife, as grantors of the interests in the parcel described above as Parcel Nine; and that such recording be further indexed under the name of Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan, as grantee of the interests in all of said parcels of land, as notice that title to the interests in said parcels of land has vested in petitioner, Consumers Power Company.

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*Joseph O. Buzza*  
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 Judge of Probate  
 Presque Isle County, Michigan