

REVISED JUDICATURE ACT OF 1961 (EXCERPT)
Act 236 of 1961

600.2979 Action for trespass, unjust enrichment, or other action; Michigan electric cooperative easement; rebuttable presumption; liability; damages; definitions.

Sec. 2979.

(1) In a trespass, unjust enrichment, or any other action arising from or relating to an easement held by a Michigan electric cooperative and brought against the holding Michigan electric cooperative, there is a rebuttable presumption that there is no unreasonable or material increase in the burden on the property subjected to the easement if the Michigan electric cooperative can show 1 of the following:

(a) That the new or additional facility was installed above the electric space, as provided in the National Electrical Safety Code in effect on the date of installation.

(b) That the new facility replaced a previously existing facility in the same or substantially similar location on the pole or poles.

(c) That the new or additional facility was installed within the electric space or within the communications space, as provided in the National Electrical Safety Code in effect on the date of the installation.

(d) That the new or additional facility was placed underground along the same or substantially similar location of existing underground electric facilities.

(2) In a trespass, unjust enrichment, or any other action arising from or relating to an easement held by a Michigan electric cooperative and brought against the holding Michigan electric cooperative, the Michigan electric cooperative is not liable unless the plaintiff establishes that 1 of the following applies to the new or additional facility installed on an existing easement:

(a) The facility was installed outside the geographic bounds of the express or prescriptive easement granted or obtained.

(b) The facility's purpose and use are expressly and specifically prohibited by the terms of the easement.

(c) The facility unreasonably or materially increases the burden on the land.

(3) In a trespass, unjust enrichment, or any other action arising from or relating to an easement held by a Michigan electric cooperative and brought against the holding Michigan electric cooperative, evidence of revenue realized by the Michigan electric cooperative from services using the new or additional facility is inadmissible for purposes of proving damages. Any damages in a trespass, unjust enrichment, or any other action arising from or relating to an easement held by a Michigan electric cooperative and brought against the holding Michigan electric cooperative must be determined by actual diminution of value of the property subject to the easement and directly related to the installation of the additional facility. However, damages awarded must not exceed \$3.00 per linear foot.

(4) As used in this section:

(a) "Facility" means new or expanded broadband fiber infrastructure used, at least partially, for electric service purposes.

(b) "Michigan electric cooperative" includes entities engaged in the transmission or distribution of electric service and that are either of the following:

(i) An electric cooperative headquartered in this state organized as a cooperative corporation under sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109, serving primarily members of the cooperative electric utility.

(ii) Another cooperative corporation headquartered in this state.

History: Add. 2020, Act 60, Imd. Eff. Mar. 10, 2020