

ISSUING GUIDELINES

ALTA Endorsement: 36.6-06 (Energy Project - Encroachments)

Explanation:

This endorsement is one of a series of endorsements designed specifically for energy projects (e.g., wind farms, solar farms, traditional electricity generating facilities, etc.). Such projects may include fee parcels, leaseholds, and/or easements.

This endorsement is modeled on and provides coverage similar to ALTA Endorsement 28.1-06 (Encroachments – Boundaries and Easements).

This endorsement contains an expansive definition of “Electricity Facility” that includes an existing electricity generating facility and an electricity generating facility under construction or to be built on the Land in locations according to defined “Plans” depicting the project. This endorsement also contains a definition of existing and future “Severable Improvements” linked to the definitions of Electricity Facility and the Plans.

This endorsement provides coverage against loss by reason of:

- (a) an encroachment of any existing or future Electrical Facility or Severable Improvement onto adjoining land or onto that portion of the Land subject to an easement, unless exception in Schedule B identifies the encroachment,
- (b) an encroachment of an improvement located on adjoining land onto the Land at Date of Policy, unless exception in Schedule B identifies the encroachment,
- (c) enforced removal of any existing or future Electrical Facility or Severable Improvement, as a result of an encroachment by any existing or future Electrical Facility or Severable Improvement onto any portion of the Land subject to any easement, or
- (d) damage to any existing or future Electrical Facility or Severable Improvement that encroaches onto that portion of the Land subject to an easement.

Underwriting Requirements:

1. The project must involve an electricity generating facility (e.g., wind farms, solar farms, traditional electricity generating facilities, etc.). The electricity facility can be existing or to be built or under construction.
2. This endorsement is designed primarily for a policy insuring an energy project under construction or to be built. However, it can be used for an existing, completed energy project with appropriate modification to the definitions of Electricity Facility and Severable Improvement, and deletion of the references to the Plans.
3. If the project is to be built or under construction, obtain and retain a set of the plans for the project (survey, site and elevation plans or other depictions or drawings prepared by an architect or engineer), and such plans must be referenced in the endorsement. If the project is completed or existing, and no construction is contemplated, you may waive the requirement of the plans, and modify the endorsement to delete the reference to the Plans.
4. Obtain a current, accurate survey, which shows the location of: (a) all existing improvements and all proposed improvements, based upon the Plans defined in the endorsement, and (b) all existing and proposed easements. Except in Schedule B to all encroachments over property lines or easements. In addition, if a planned improvement encroaches over any portion of an easement or an existing improvement encroaches over more than one half of the width of an easement, reference those encroachments in section 3.e in order to delete the coverages provided by section 3.c and 3.d, unless you secure underwriter approval.
5. Sections 3.c and 3.d are alternatives coverages. They should not appear in the same endorsement.
6. If you date down the policy, require a new survey showing the location of all improvements.

Underwriting Requirements:

Issuing guideline applies to the following Endorsement(s):

ALTA 36.6-06 Energy Project - Encroachments - 2006 ALTA Loan or Owner's Policy