

17-1917. Same; duty of utility owning lines or facilities; payment of expenses; bond or surety; failure of utility to perform, damages; action to recover damages, fees and costs. It shall be the duty of any public or municipally owned utility owning or operating such wires, cables or other aerial equipment after service of notice, as required in K.S.A. 17-1916, to furnish competent workmen or linemen to remove, raise, or cut such wires, cables or other aerial equipment as will be necessary to facilitate applicant's moving operations. The necessary expense which is incurred by or on behalf of any public or municipally owned utility for cutting, raising, removing, or otherwise facilitating the moving operations of the applicant shall be paid by applicant to each public or municipally owned utility concerned. The public or municipally owned utility may require the applicant to furnish the public or municipally owned utility with appropriate bond or other surety agreement insuring the payment of all expenses incurred as a result of applicant's moving operations.

The failure of any public or municipally owned utility, after having received the notice provided for in K.S.A. 17-1916, and having received advance payment or agreed to accept a surety arrangement in lieu of advance payment, to raise, remove, relocate or otherwise adjust its aerial facilities to accommodate applicant's moving operations, within fifteen (15) days from date notice is received or within twenty-four (24) hours after notice is given following the initial fifteen (15) day notice period, shall render such utility liable to applicant for damages in an amount not to exceed one hundred dollars (\$100) per day for each day said public or municipally owned utility fails and refuses to so accommodate applicant's moving operations. Suit to recover such damages shall be maintained in the district court in the district in which such property is located and the applicant shall be entitled to reasonable attorney's fees and court costs in addition to such damages.

History: L. 1917, ch. 251, § 4; R.S. 1923, 17-1917; L. 1974, ch. 97, § 4; L. 1975, ch. 135, § 4; July 1.