

**199—42.9(476) Insurance.**

**42.9(1)** Unless otherwise agreed upon by the railroad and public utility, the public utility shall maintain, or cause to be maintained, the following minimum insurance coverage with respect to each railroad crossing:

*a.* General public liability insurance with limits of not less than \$500,000 for injury or death of a single person, or not less than \$1 million for any one accident, and not less than \$250,000 per accident for property damage. The exclusion or limitations for railroads shall be removed.

*b.* Comprehensive automobile liability insurance with limits of not less than \$500,000 for injury or death of a single person, or not less than \$1 million for any one accident, and not less than \$250,000 for property damage.

*c.* Excess liability coverage with limits of not less than \$5 million, except that the required limits shall be \$1 million for small utilities for railroad crossings by facilities other than gas or hazardous materials pipelines.

*d.* Railroad protective liability insurance with a combined single limit of \$4 million per occurrence and \$6 million aggregate, except that the required limits shall be a combined single limit of \$2 million per occurrence and \$4 million aggregate for small utilities for railroad crossings by facilities other than gas or hazardous materials pipelines. Such coverage shall be required only during the period of construction, repair, or replacement of the facilities and may be provided by a blanket railroad protective liability insurance policy provided that the coverage, including the coverage limits, applies separately to each individual crossing on each individual railroad.

**42.9(2)** The coverage in paragraphs 42.9(1)“*a*” through “*d*” must be by blanket insurance policies covering other property or risks, or self-insurance. In the event the public utility desires to self-insure, it must maintain a minimum long-term rating of A- and net assets of not less than \$100 million, unless the railroad agrees to different amounts. If the public utility’s long-term rating is lowered below an A- rating, the public utility will provide commercial insurance as required in this rule and will notify the railroad that its long-term rating was lowered below A-.

**42.9(3)** The coverage in paragraphs 42.9(1)“*a*” through “*d*” must be in place prior to the commencement by the public utility of any work within the railroad’s right-of-way in order to secure payment for any damages for which the public utility bears responsibility.

**42.9(4)** Before commencing construction of any facility, the public utility must provide to the railroad proof that the public utility has procured the insurance coverage as required in this rule.

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