

TRANSMISSION COMPANY DEFINITIONS

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House Bill 4482 (H-6) & 4483 (H-4) as reported from committee

Sponsor: Rep. Triston Cole

Committee: Energy Policy

Complete to 6-6-17

Analysis available at
<http://www.legislature.mi.gov>

BRIEF SUMMARY:

House Bills 4482 and 4483 would amend the definition of an "affiliated transmission company" and "independent transmission company" in two electric energy-related acts.

FISCAL IMPACT:

These bills do not appear to have a fiscal impact on the Department of Licensing and Regulatory Affairs (in which the Public Service Commission is housed).

THE APPARENT PROBLEM:

The bills are intended to address a concern that a non-incumbent transmission company¹ could apply for and win a bid to complete a project from a Regional Transmission Organization (RTO), but subsequently be prohibited from building the transmission lines in Michigan under state law.

The stated purpose of Midcontinent Independent System Operator (MISO), an RTO which operates in Michigan and 14 other states, as well as in the Canadian province of Manitoba, is to coordinate transmission of the correct amounts of energy throughout the region, while maintaining competition.² Until 2011, if MISO decided that another transmission facility was needed in a specific area, the MISO member serving that local area had a "federal right of first refusal" to that project—or the ability to do the project, if it so wished, without submitting the project to a formal bidding process. However, in that year, the Federal Energy Regulatory Committee (FERC) issued Order No. 1000, which, in part, required RTOs to remove these provisions from their agreements.

There is a concern that, without the proposed changes to the definitions in HBs 4482 and 4483, the goal of increased competition is not possible.

¹ Order No. 1000 from the Federal Energy Regulatory Commission (FERC) defines a "nonincumbent transmission developer" as either: (1) a transmission developer that does not have a retail distribution service territory or footprint; or (2) a public utility transmission provider that proposes a transmission project outside of its existing retail distribution service territory or footprint, where it is not the incumbent for purposes of that project. An "incumbent transmission developer/provider" is defined as an entity that develops a transmission project within its own retail distribution service territory or footprint. *See Transmission Planning and Cost Allocation by Transmission Owning and Operating Public Utilities*, Order No. 1000, FERC Stats. & Regs. ¶ 31,323 at P 225 (2011), order on reh'g, Order No. 1000-A, 139 FERC ¶ 61,132, order on reh'g and clarification, Order No. 1000-B, 141 FERC ¶ 61,044 (2012), *aff'd sub nom. S.C. Pub. Serv. Auth. v. FERC*, 762 F.3d 41 (D.C. Cir. 2014).

² <https://www.misoenergy.org/AboutUs/Pages/AboutUs.aspx>

THE CONTENT OF THE BILL:

The bills would broaden the definitions for affiliated and independent transmission companies. Both bills would remove a requirement that the companies be associated with an electric utility engaged in the generation, transmission, and distribution of electricity in Michigan on December 31, 2000. For an affiliated transmission company, this would require that the company facilities were transferred from that utility; for an independent transmission company, the facilities must have been divested to the company by the utility.

HB 4482 would add a second category to both affiliated transmission company and independent transmission company definitions, to include entities issued a certificate of public convenience and necessity by the Michigan Public Service Commission under the Electric Transmission Line Certification Act. An affiliated transmission company would also have to be considered a qualified transmission developer by a regional transmission organization and does not include an electric utility.

HB 4483 would amend the Electric Transmission Line Certification Act (MCL 460.562) to revise the definition of an independent transmission company to require that it must fully satisfy the requirements to join an RTO organization and be considered a qualified transmission developer by a regional transmission organization. The bill would also add that an affiliated transmission company does not include an electric utility.

BACKGROUND INFORMATION:

As a result of the enactment of Public Act 141 of 2000—the Customer Choice and Electric Reliability Act—Michigan's two largest electric utilities divested themselves of their transmission lines, which are now owned by so-called independent transmission companies. The lines once owned by DTE Energy (Detroit Edison) are now owned by International Transmission Company (ITC), and Consumers Energy's transmission system was acquired by Michigan Electric Transmission Company (METC).

Consequently, Public Acts 197 and 198 of 2004 necessarily made provisions for affiliated and independent transmission companies to mimic those for traditional electric utilities. These acts provided for the construction or expansion of transmission lines, including the condemnation of property through eminent domain and approval from the Michigan Public Service Commission, for independent and affiliated transmission companies in addition to their traditional counterparts.

ARGUMENTS:

For:

According to supporters, the bills would broaden the definitions to allow for greater access to non-incumbent companies. This would foster increased competition for projects in Michigan, bringing energy costs down for Michigan taxpayers.

Against:

A company that builds a transmission line is ultimately responsible for maintaining that line. Opponents of the bill highlighted that under the bill, Michigan would no longer have the ability to approve which transmission company could conduct business in the state. Instead, MISO would approve the contractors. This could lead to companies using eminent domain authority to conduct business in Michigan without the state being able to evaluate the company.

POSITIONS:

A representative of LSP Transmission Holdings testified in support of the bills. (6-6-17, 6-20-17)

A representative of GridLiance testified in support of the bills. (6-6-17, 6-20-17)

A representative of American Transmission Company supported the bills on 6-6-17, but opposed the bill on 6-20-17.

A representative of the Michigan Freedom Fund supports the bills. (6-6-17, 6-20-17)

A representative of Indiana Michigan Power was neutral on the bills on 6-6-17, but was supportive of the bills on 6-20-17.

A representative of ITC Holdings testified in opposition to the bills. (6-6-17, 6-20-17)

A representative of the Detroit Regional Chamber opposes the bills. (6-6-17, 6-20-17)

A representative from DTE Energy was neutral on the bills. (6-20-17)

A representative from the Michigan Chamber of Commerce was neutral on the bills. (6-20-17)

A representative from the Michigan Chemistry Council supports the bills. (6-20-17)

A representative from the Michigan Municipal League opposed the bills. (6-20-17)

A representative from the MMA opposed the bills. (6-20-17)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.