

## TRANSMISSION COMPANY DEFINITIONS

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### House Bills 4482 & 4483 as introduced

**Sponsor: Rep. Triston Cole**

**Committee: Energy Policy**

**Complete to 6-5-17**

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

### 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.

The bills are intended to address a concern that a non-incumbent transmission company<sup>1</sup> could apply for and win a bid to complete a project from a Regional Transmission Organization (RTO), but be unable to build the transmission lines in Michigan because state law would not allow for it.

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.<sup>2</sup> 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 changes to the definitions proposed in HBs 4482 and 4483, this goal of increased competition would not be possible.

HB 4483 would amend the Electric Transmission Line Certification Act (MCL 460.562) to define an independent transmission company as fully satisfying the requirements to join an RTO organization.

HB 4482 would incorporate this same change into Public Act 238 of 1923 (MCL 486.255). Additionally, it would add a second category to both affiliated transmission companies and

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<sup>1</sup> 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).

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

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.

#### **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.

#### **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.)

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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.