

**SUBSTITUTE FOR
HOUSE BILL NO. 4482**

A bill to amend 1923 PA 238, entitled

"An act authorizing the formation of corporations for the purpose of generating, manufacturing, producing, gathering, storing, transmitting, distributing, transforming, selling and supplying electric energy or gas, either artificial or natural, or both electric energy and gas, to the public generally, or to public utilities or natural gas companies, and providing for and giving to such corporations and also to corporations heretofore lawfully organized, among other things, for such purposes; to corporations heretofore lawfully organized, or that may hereafter be lawfully organized and duly authorized to carry on the electric or gas business as a public utility in the state of Michigan; and to foreign corporations heretofore lawfully organized or that may hereafter be lawfully organized, among other things, for such purposes, and duly authorized to carry on business in the state of Michigan, the right to condemn private property for the uses provided for herein,"

by amending section 5 (MCL 486.255), as added by 2004 PA 197.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) Subject to the electric transmission line
2 certification act, 1995 PA 30, MCL 460.561 to 460.575, and the

1 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to
2 213.75, an independent transmission company or an affiliated
3 transmission company ~~shall have~~ **HAS** the power to condemn property
4 that is necessary to transmit electric energy for public use except
5 for both of the following:

6 (a) An independent transmission company or affiliated
7 transmission company shall not circumvent a private agreement that
8 existed on ~~the effective date of the amendatory act that added this~~
9 ~~subsection~~ **JULY 12, 2004** under which the independent transmission
10 company or affiliated transmission company leases rights-of-way for
11 its electric transmission facilities from the utility.

12 (b) An independent transmission company or affiliated
13 transmission company shall not condemn property owned by an
14 electric or gas utility or municipally owned utility in a manner
15 ~~which~~ **THAT** unreasonably disrupts the ability of the electric or gas
16 utility or municipally owned utility to continue to provide service
17 to its customers. If a dispute exists under this subdivision, the
18 condemnation ~~shall~~ **MUST** not proceed until the ~~Michigan public~~
19 ~~service~~ commission determines that no unreasonable disruption is
20 involved. The commission shall make its determination under this
21 subdivision pursuant to a contested case under the administrative
22 procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, within
23 180 days of the date an application or petition requesting a
24 determination is filed with the commission. If the principal
25 parties of record agree that the complexity of dispute involved
26 requires additional time, the commission ~~may have~~ **HAS** up to 210
27 days from the date the application or petition was filed **TO MAKE A**

1 **DETERMINATION UNDER THIS SUBDIVISION.**

2 (2) Except as otherwise provided under this section, in
3 condemning property under subsection (1), an independent
4 transmission company or affiliated transmission company is subject
5 to the same procedures and requirements under this act as a
6 corporation formed under this act.

7 (3) Section 3(1) and any procedure or requirement under this
8 act that is inconsistent with the electric transmission line
9 certification act, 1995 PA 30, MCL 460.561 to 460.575, or the
10 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to
11 213.75, do not apply to an independent transmission company or
12 affiliated transmission company.

13 (4) As used in this act:

14 (a) "Affiliated transmission company" means ~~a~~**EITHER OF THE**
15 **FOLLOWING:**

16 (i) **A** person, partnership, corporation, association, or other
17 legal entity, or its successors or assigns, ~~which~~**THAT** has fully
18 satisfied the requirements to join a regional transmission
19 organization, ~~as determined by the federal energy regulatory~~
20 ~~commission,~~**THAT IS CONSIDERED A QUALIFIED TRANSMISSION DEVELOPER**
21 **BY A REGIONAL TRANSMISSION ORGANIZATION, THAT** is engaged ~~in this~~
22 ~~state~~ in the transmission of electricity, ~~using facilities it owns~~
23 ~~that were transferred to the entity by an electric utility that was~~
24 ~~engaged in the generation, transmission, and distribution of~~
25 ~~electricity in this state on December 31, 2000,~~ and **THAT** is not
26 independent of an electric utility or an affiliate of the utility,
27 generating or distributing electricity to retail customers in this

1 state.

2 (ii) A PERSON, PARTNERSHIP, CORPORATION, ASSOCIATION, OR OTHER
3 LEGAL ENTITY, THAT HOLDS A CERTIFICATE ISSUED BY THE COMMISSION
4 UNDER THE ELECTRIC TRANSMISSION LINE CERTIFICATION ACT, 1995 PA 30,
5 MCL 460.561 TO 460.575, IF THAT ENTITY IS AN AFFILIATE OF AN
6 ELECTRIC UTILITY GENERATING OR DISTRIBUTING ELECTRICITY TO RETAIL
7 CUSTOMERS IN THIS STATE.

8 (B) "AFFILIATED TRANSMISSION COMPANY" DOES NOT INCLUDE AN
9 ELECTRIC UTILITY.

10 (C) "COMMISSION" MEANS THE MICHIGAN PUBLIC SERVICE COMMISSION.

11 (D) ~~(b)~~—"Independent transmission company" means ~~a~~—EITHER OF
12 THE FOLLOWING:

13 (i) A person, partnership, corporation, association, or other
14 legal entity, or its successors or assigns, **THAT IS** engaged in this
15 state in the transmission of electricity using facilities it owns
16 that have been divested to the entity by an electric utility that
17 was engaged in the generation, transmission, and distribution of
18 electricity in this state on December 31, 2000, and **THAT** is
19 independent of an electric utility or an affiliate of the utility,
20 generating or distributing electricity to retail customers in this
21 state.

22 (ii) A PERSON, PARTNERSHIP, CORPORATION, ASSOCIATION, OR OTHER
23 LEGAL ENTITY, THAT HOLDS A CERTIFICATE ISSUED BY THE COMMISSION
24 UNDER THE ELECTRIC TRANSMISSION LINE CERTIFICATION ACT, 1995 PA 30,
25 MCL 460.561 TO 460.575, IF THAT ENTITY IS NOT AN AFFILIATE OF AN
26 ELECTRIC UTILITY GENERATING OR DISTRIBUTING ELECTRICITY TO RETAIL
27 CUSTOMERS IN THIS STATE.