

Act No. 125  
Public Acts of 2021  
Approved by the Governor  
December 16, 2021  
Filed with the Secretary of State  
December 17, 2021  
EFFECTIVE DATE: December 17, 2021

**STATE OF MICHIGAN  
101ST LEGISLATURE  
REGULAR SESSION OF 2021**

Introduced by Senators Schmidt and Hertel

## **ENROLLED SENATE BILL No. 103**

AN ACT to provide for the rights of certain electric transmission line owners; to impose certain requirements on certain electric transmission line owners; and to provide for the powers and duties of certain state agencies.

*The People of the State of Michigan enact:*

Sec. 1. This act shall be known and may be cited as the “transmission infrastructure planning act”.

Sec. 2. As used in this act:

(a) “Affiliated transmission company” means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(b) “Commission” means the Michigan public service commission.

(c) “Cooperative electric utility” means either of the following:

(i) An electric cooperative organized as a cooperative corporation under sections 98 to 109 of 1931 PA 327, MCL 450.98 to 450.109.

(ii) A cooperative corporation in the business of generating or transmitting electricity.

(d) “Electric utility” means any of the following:

(i) An electric utility as that term is defined in section 10h of 1939 PA 3, MCL 460.10h.

(ii) A municipal electric utility system as that term is defined in section 4 of the Michigan energy employment act of 1976, 1976 PA 448, MCL 460.804.

(iii) A cooperative electric utility.

(iv) A joint agency acting on its own behalf or on behalf of 1 or more of its member municipal electric utility systems.

(e) “High-voltage transmission line” means a line used to transmit electricity and all associated structures, equipment, facilities, and other personal property necessary to transfer electricity over the line at a system bulk supply voltage of 100 kilovolts or more.

(f) “Incumbent electric transmission company” means an electric utility, affiliated transmission company, or independent transmission company that owns a high-voltage transmission line in this state on or after the effective date of this act.

(g) “Independent transmission company” means that term as defined in section 2 of the electric transmission line certification act, 1995 PA 30, MCL 460.562.

(h) “Joint agency” means that term as defined in section 3 of the Michigan energy employment act of 1976, 1976 PA 448, MCL 460.803.

(i) “Recognized electric planning authority” means a person recognized by the Federal Energy Regulatory Commission or the North American Electric Reliability Corporation as authorized under federal law to approve a high-voltage transmission line for construction by an incumbent electric transmission company, including, but not limited to, a regional transmission organization.

(j) “Regional transmission organization” means a person that meets all of the following:

(i) Possesses characteristics required under 18 CFR 35.34(j).

(ii) Performs functions required under 18 CFR 35.34(k).

(iii) Accommodates an open architecture as required under 18 CFR 35.34(l).

(iv) Is recognized by the Federal Energy Regulatory Commission as the organization with oversight responsibility for a region that includes the service territory of an incumbent electric transmission company.

(k) “Regionally cost-shared transmission line” means a high-voltage transmission line that is eligible for regional cost sharing and is not subject to a right of first refusal in accordance with the tariff of a recognized electric planning authority.

Sec. 3. (1) An incumbent electric transmission company has the right to construct, own, operate, maintain, and control a regionally cost-shared transmission line if both of the following apply:

(a) The regionally cost-shared transmission line or its construction was included in a plan adopted or otherwise approved by a recognized electric planning authority for the incumbent electric transmission company.

(b) The regionally cost-shared transmission line will interconnect to facilities owned, or that will be owned, by that incumbent electric transmission company.

(2) The right to construct, own, operate, maintain, and control a regionally cost-shared transmission line that will interconnect to facilities owned by 2 or more incumbent electric transmission companies belongs individually and equally to each incumbent electric transmission company, unless otherwise agreed to in writing by each incumbent electric transmission company.

(3) If an incumbent electric transmission company, or companies if there is more than 1 owner of the transmission line, has the right to construct, own, operate, maintain, and control a regionally cost-shared transmission line in accordance with this act, then all of the following cost accountability provisions apply:

(a) Not later than 90 days after approval of the regionally cost-shared transmission line by the recognized electric planning authority, an incumbent electric transmission company, or incumbent electric transmission companies if there is more than 1 owner, that owns a connecting electric transmission facility shall give written notice to the commission indicating whether the incumbent electric transmission company or companies intend to construct the regionally cost-shared transmission line.

(b) Not later than 180 days after approval of the regionally cost-shared transmission line by the recognized electric planning authority, the incumbent electric transmission company or companies shall do both of the following:

(i) Hold a meeting with the commission to provide detailed information and to answer any questions about the regionally cost-shared transmission line.

(ii) Provide a report to the commission that includes an estimate of the cost to construct the regionally cost-shared transmission line and documentation that the cost for the regionally cost-shared transmission line is the result of competitively bid engineering, procurement, and construction contracts.

(c) Until construction of the regionally cost-shared transmission line is complete, the incumbent electric transmission company shall provide a quarterly report to the commission that includes an updated estimate of the cost to construct the regionally cost-shared transmission line and an explanation of changes in the cost estimate from the previous cost estimate.

(d) If the commission files a complaint at the Federal Energy Regulatory Commission to challenge the costs incurred by the incumbent electric transmission company to construct the regionally cost-shared transmission line, then the incumbent electric transmission company shall reimburse the commission’s litigation costs as follows:

(i) If the commission’s complaint is granted, the incumbent electric transmission company or companies shall reimburse the commission 100% of its litigation costs, not to exceed \$250,000.00.

(ii) If the commission’s complaint is denied, the incumbent electric transmission company or companies shall reimburse the commission 25% of its litigation costs, not to exceed \$250,000.00.

(4) This section does not alter or limit the right of a person to construct, own, operate, maintain, or control an electric transmission line in this state that is not a regionally cost-shared transmission line. This section controls in any conflict between this section and any other law of this state.

(5) This act does not do any of the following:

(a) Confer the power of eminent domain.

(b) Modify the authority of the Michigan public service commission under 1939 PA 3, MCL 460.1 to 460.11.

(c) Modify the rights of property owners under the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75.

(d) Modify the requirements, rights, and obligations of an incumbent electric transmission company under the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575.

(e) Modify or supersede the requirements, rights, and obligations of an affiliated transmission company, independent transmission company, or electric utility under any contract to which the affiliated transmission company, independent transmission company, or electric utility is a party, including any service agreement or other contract that is subject to the jurisdiction of the Federal Energy Regulatory Commission, if the contract relates to service over facilities owned or operated, or to be owned or operated, by the affiliated transmission company, independent transmission company, or electric utility.

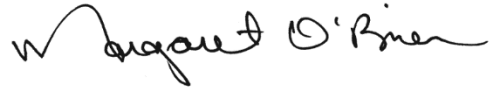
(f) Modify or supersede the authority, if any, of the Federal Energy Regulatory Commission or the commission to determine the proper classification of transmission and local distribution facilities for any purpose, including assignment of jurisdiction and approval of cost-recovery.

(g) Grant an independent transmission company or affiliated transmission company the right or the authority to distribute electricity or serve retail electric customers in this state.

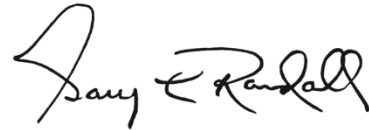
(h) Modify the exclusive authority of electric utilities to own, construct, and operate local distribution facilities.

(i) Modify or supersede the authority of a municipal electric utility or joint agency to own, construct, and operate transmission lines under any other law of this state.

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved \_\_\_\_\_

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Governor