ELECTRIC AND GAS CORPORATIONS (EXCERPT)

Act 238 of 1923

486.255 Independent transmission company or affiliated company; power to condemn property; limitation; procedures and requirements; definitions.

Sec. 5.

(1) Subject to the electric transmission line certification act, 1995 PA 30, MCL 460.561 to 460.575, and the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.75, an independent transmission company or an affiliated transmission company shall have the power to condemn property that is necessary to transmit electric energy for public use except for both of the following:

(a) An independent transmission company or affiliated transmission company shall not circumvent a private agreement that existed on the effective date of the amendatory act that added this subsection under which the independent transmission company or affiliated transmission company leases rights-of-way for its electric transmission facilities from the utility.

(b) An independent transmission company or affiliated transmission company shall not condemn property owned by an electric or gas utility or municipally owned utility in a manner which unreasonably disrupts the ability of the electric or gas utility or municipally owned utility to continue to provide service to its customers. If a dispute exists under this subdivision, the condemnation shall not proceed until the Michigan public service commission determines that no unreasonable disruption is involved. The commission shall make its determination under this subdivision pursuant to a contested case under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, within 180 days of the date an application or petition requesting a determination is filed with the commission. If the principal parties of record agree that the complexity of dispute involved requires additional time, the commission may have up to 210 days from the date the application or petition was filed.

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

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

(4) As used in this act:

(a) "Affiliated transmission company" means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, which has fully satisfied the requirements to join a regional transmission organization as determined by the federal energy regulatory commission, is engaged in this state in the transmission of electricity using facilities it owns that were transferred to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is not independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

(b) “Independent transmission company” means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, engaged in this state in the transmission of electricity using facilities it owns that have been divested to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

History: Add. 2004, Act 197, Imd. Eff. July 12, 2004