

**SUBSTITUTE FOR
HOUSE BILL NO. 5807**

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 3 (MCL 486.253) and by adding section 5.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. (1) ~~Such~~ A corporation **formed under this act**
2 shall ~~furnish and~~ sell to the public ~~generally such~~ **the**
3 electric energy ~~as it shall generate or transmit and such gas as~~
4 ~~it shall manufacture, produce, store or transmit, in the carrying~~

~~1 on of its business it generates or transmits and the gas it~~
~~2 manufactures, produces, stores, or transmits, upon such~~
~~3 reasonable terms, rates, and conditions as shall be determined~~
~~4 from time to time by the Michigan public service commission. —~~
~~5 and said commission may for that purpose, —~~ **The Michigan public**
~~6 service commission may~~ examine all books and records of ~~such~~
~~7 the~~ corporation and audit the ~~same, and any~~ corporation. **Any**
~~8 order of said the~~ commission may be reviewed, set aside,
~~9 modified, or affirmed in the manner provided by law. —for the~~
~~10 review of orders of said commission pertaining to steam railroad~~
~~11 companies. In any case where either Act No. 9 or Act No. 69 of~~
~~12 the Public Acts of 1929, as amended,~~

~~13~~ **(2) If 1929 PA 9, MCL 483.101 to 483.120, 1929 PA 69, MCL**
~~14 460.501 to 460.506, or the electric transmission line~~
~~15 certification act, 1995 PA 30, MCL 460.561 to 460.575, requires a~~
~~16 certificate of necessity to be obtained from the Michigan public~~
~~17 service commission, then in such instance any such the~~
~~18 corporation shall, before commencing any condemnation~~
~~19 proceedings, first make application to, and obtain from said~~
~~20 the~~ commission ~~such certificate as is now or may hereafter, by~~
~~21 amendment, be required by the provisions of said acts, and shall,~~
~~22 in all other respects, comply with the requirements of said acts~~
~~23 a certificate as required under those acts.~~

~~24~~ **Sec. 5. (1) Subject to the electric transmission line**
~~25 certification act, 1995 PA 30, MCL 460.561 to 460.575, and the~~
~~26 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to~~
~~27 213.75, an independent transmission company or an affiliated~~

1 transmission company shall have the power to condemn property
2 that is necessary to transmit electric energy for public use
3 except for both of the following:

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

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

26 (2) Except as otherwise provided under this section, in
27 condemning property under subsection (1), an independent

1 transmission company or affiliated transmission company is
2 subject to the same procedures and requirements under this act as
3 a corporation formed under this act.

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

10 (4) As used in this act:

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

23 (b) "Independent transmission company" means a person,
24 partnership, corporation, association, or other legal entity, or
25 its successors or assigns, engaged in this state in the
26 transmission of electricity using facilities it owns that have
27 been divested to the entity by an electric utility that was

1 engaged in the generation, transmission, and distribution of
2 electricity in this state on December 31, 2000, and is
3 independent of an electric utility or an affiliate of the
4 utility, generating or distributing electricity to retail
5 customers in this state.

6 Enacting section 1. This amendatory act does not take
7 effect unless House Bill No. 5808 of the 92nd Legislature is
8 enacted into law.