

SUBSTITUTE FOR
HOUSE BILL NO. 5808

A bill to amend 1995 PA 30, entitled
"Electric transmission line certification act,"
by amending sections 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, and 15
(MCL 460.562, 460.563, 460.564, 460.565, 460.566, 460.567,
460.568, 460.569, 460.570, 460.571, 460.573, and 460.575).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. As used in this act:
2 (a) "Affiliated transmission company" means a person,
3 partnership, corporation, association, or other legal entity, or
4 its successors or assigns, which has fully satisfied the
5 requirements to join a regional transmission organization as
6 determined by the federal energy regulatory commission, is
7 engaged in this state in the transmission of electricity using
8 facilities it owns that were transferred to the entity by an
9 electric utility that was engaged in the generation,

1 transmission, and distribution of electricity in this state on
2 December 31, 2000, and is not independent of an electric utility
3 or an affiliate of the utility, generating or distributing
4 electricity to retail customers in this state.

5 (b) ~~-(a)-~~ "Certificate" means a certificate of public
6 convenience and necessity issued for a major transmission line
7 ~~pursuant to~~ **under** this act or issued for a transmission line
8 ~~pursuant to~~ **under** section 9.

9 (c) ~~-(b)-~~ "Commission" means the Michigan public service
10 commission.

11 (d) ~~-(c)-~~ "Construction" means any substantial action taken
12 on a route constituting placement or erection of the foundations
13 or structures supporting a transmission line. Construction does
14 not include preconstruction activity or the addition of circuits
15 to an existing transmission line.

16 (e) ~~-(d)-~~ "Electric utility" means a person, partnership,
17 corporation, association, or other legal entity whose
18 transmission or distribution of electricity the commission
19 regulates ~~pursuant to Act No. 106 of the Public Acts of 1909,~~
20 ~~being sections 460.551 to 460.559 of the Michigan Compiled Laws,~~
21 ~~or Act No. 3 of the Public Acts of 1939, being sections 460.1 to~~
22 ~~460.8 of the Michigan Compiled Laws~~ **under 1909 PA 106, MCL**
23 **460.551 to 460.559, or 1939 PA 3, MCL 460.1 to 460.10cc.**
24 Electric utility does not include a municipal utility, **affiliated**
25 **transmission company, or independent transmission company.**

26 (f) "Independent transmission company" means a person,
27 partnership, corporation, association, or other legal entity, or

1 its successors or assigns, engaged in this state in the
2 transmission of electricity using facilities it owns that have
3 been divested to the entity by an electric utility that was
4 engaged in the generation, transmission, and distribution of
5 electricity in this state on December 31, 2000, and is
6 independent of an electric utility or an affiliate of the
7 utility, generating or distributing electricity to retail
8 customers in this state.

9 (g) ~~-(e)-~~ "Major transmission line" means a transmission line
10 of 5 miles or more in length wholly or partially owned by an
11 electric utility, **affiliated transmission company, or independent**
12 **transmission company** through which electricity is transferred at
13 system bulk supply voltage of 345 kilovolts or more.

14 (h) ~~-(f)-~~ "Municipality" means a city, township, or village.

15 (i) ~~-(g)-~~ "Preconstruction activity" means any activity on a
16 proposed route conducted before construction of a transmission
17 line begins. Preconstruction activity includes surveys,
18 measurements, examinations, soundings, borings, sample-taking, or
19 other testing procedures, photography, appraisal, or tests of
20 soil, groundwater, structures, or other materials in or on the
21 real property for contamination. Preconstruction activity does
22 not include an action that permanently or irreparably alters the
23 real property on or across the proposed route.

24 (j) ~~-(h)-~~ "Route" means real property on or across which a
25 transmission line is constructed or proposed to be constructed.

26 (k) ~~-(i)-~~ "Transmission line" means all structures,
27 equipment, and real property necessary to transfer electricity at

1 system bulk supply voltage of 100 kilovolts or more.

2 Sec. 3. (1) Transmission of electricity is an essential
3 service.

4 (2) **This act shall control in any conflict between this act**
5 **and any other law of this state.**

6 Sec. 4. (1) If an electric utility — that has 50,000 or
7 more residential customers in this state, **affiliated transmission**
8 **company, or an independent transmission company** plans to
9 construct a major transmission line in this state in the 5 years
10 after planning commences, the electric utility, **affiliated**
11 **transmission company, or independent transmission company** shall
12 submit a construction plan to the commission. An electric
13 utility with ~~less~~ **fewer** than 50,000 residential customers in
14 this state may submit a plan under this section. A plan shall
15 include all of the following:

16 (a) The general location and size of all major transmission
17 lines to be constructed in the 5 years after planning commences.

18 (b) Copies of relevant bulk power transmission information
19 filed by the electric utility, **affiliated transmission company,**
20 **or independent transmission company** with any state or federal
21 agency, national electric reliability coalition, or regional
22 electric reliability coalition.

23 (c) Additional information required by commission rule or
24 order that directly relates to the construction plan.

25 (2) At the same time the electric utility, **affiliated**
26 **transmission company, or independent transmission company** submits
27 a construction plan to the commission under subsection (1), the

1 electric utility, **affiliated transmission company, or independent**
2 **transmission company** shall provide a copy of the construction
3 plan to each municipality in which construction of the planned
4 major transmission line is intended.

5 Sec. 5. An electric utility, **affiliated transmission**
6 **company, or independent transmission company** shall not begin
7 construction of a major transmission line for which a plan has
8 been submitted under section 4 until the commission issues a
9 certificate for that transmission line. Except as otherwise
10 provided in section 9, a certificate of public convenience and
11 necessity under this act is not required for constructing a new
12 transmission line other than a major transmission line or for
13 reconstructing, repairing, replacing, or improving an existing
14 transmission line, including the addition of circuits to an
15 existing transmission line.

16 Sec. 6. (1) Before applying for a certificate **under section**
17 **5**, an electric utility, **affiliated transmission company, or**
18 **independent transmission company** shall schedule and hold a public
19 meeting in each municipality through which a proposed major
20 transmission line for which a plan has been submitted under
21 section 4 would pass. A public meeting held in a township
22 satisfies the requirement that a public meeting be held in each
23 affected village located within the township.

24 (2) In the 60 days before a public meeting held ~~pursuant to~~
25 **under** subsection (1), the electric utility, **affiliated**
26 **transmission company, or independent transmission company** shall
27 offer in writing to meet with the chief elected official of each

1 affected municipality or his or her designee to discuss the
2 utility's, **affiliated transmission company's, or independent**
3 **transmission company's** desire to build the major transmission
4 line and to explore the routes to be considered.

5 Sec. 7. (1) An electric utility that has 50,000 or more
6 residential customers in this state, **an affiliated transmission**
7 **company, or an independent transmission company** shall apply to
8 the commission for a certificate for a proposed major
9 transmission line. An applicant may withdraw an application at
10 any time.

11 (2) An application for a certificate shall contain all of the
12 following:

13 (a) The planned date for beginning construction.

14 (b) A detailed description of the proposed major transmission
15 line, its route, and its expected configuration and use.

16 (c) A description and evaluation of 1 or more alternate major
17 transmission line routes and a statement of why the proposed
18 route was selected.

19 (d) If a zoning ordinance prohibits or regulates the location
20 or development of any portion of a proposed route, a description
21 of the location and manner in which that zoning ordinance
22 prohibits or regulates the location or construction of the
23 proposed route.

24 (e) The estimated overall cost of the proposed major
25 transmission line.

26 (f) Information supporting the need for the proposed major
27 transmission line, including identification of known future

1 wholesale users of the proposed major transmission line.

2 (g) Estimated quantifiable and nonquantifiable public
3 benefits of the proposed major transmission line.

4 (h) Estimated private benefits of the proposed major
5 transmission line to the applicant or any legal entity that is
6 affiliated with the applicant.

7 (i) Information addressing potential effects of the proposed
8 major transmission line on public health and safety.

9 (j) A summary of all comments received at each public meeting
10 and the applicant's response to those comments.

11 (k) Information indicating that the proposed major
12 transmission line will comply with all applicable state and
13 federal environmental standards, laws, and rules.

14 (l) Other information reasonably required by the commission
15 pursuant to rule.

16 Sec. 8. (1) Upon applying for a certificate, the electric
17 utility, **affiliated transmission company, or independent**
18 **transmission company** shall give public notice in the manner and
19 form the commission prescribes of an opportunity to comment on
20 the application. Notice shall be published in a newspaper of
21 general circulation in the area to be affected within a
22 reasonable time period after an application is provided to the
23 commission — and shall be sent to each affected municipality
24 and each affected landowner on whose property a portion of the
25 proposed major transmission line will be constructed. The notice
26 shall be written in plain, nontechnical, and easily understood
27 terms and shall contain a title that includes the name of the

1 electric utility, **affiliated transmission company, or independent**
2 **transmission company** and the words "NOTICE OF INTENT TO CONSTRUCT
3 A MAJOR TRANSMISSION LINE".

4 (2) The commission shall conduct a proceeding on the
5 application as a contested case ~~pursuant to chapter 4 of~~ **under**
6 the administrative procedures act of 1969, ~~Act No. 306 of the~~
7 ~~Public Acts of 1969, being sections 24.271 to 24.287 of the~~
8 ~~Michigan Compiled Laws~~ **1969 PA 306, MCL 24.201 to 24.328.** Upon
9 receiving an application for a certificate, each affected
10 municipality and each affected landowner shall be granted full
11 intervenor status as of right in commission proceedings
12 concerning the proposed major transmission lines.

13 (3) The commission may assess certificate application fees
14 from the electric utility, **affiliated transmission company, or**
15 **independent transmission company** to cover the commission's
16 administrative costs in processing the application and may
17 require the electric utility, **affiliated transmission company, or**
18 **independent transmission company** to hire consultants chosen by
19 the commission to assist the commission in evaluating those
20 issues the application raises.

21 (4) The commission shall grant or deny the application for a
22 certificate not later than 1 year after the application's filing
23 date. If a party submits an alternative route for the proposed
24 major transmission line, the commission shall grant the
25 application for either the electric utility's, **affiliated**
26 **transmission company's, or independent transmission company's**
27 proposed route or 1 alternative route or shall deny the

1 application. The commission may condition its approval upon the
2 applicant taking additional action to assure the public
3 convenience, health, and safety and reliability of the proposed
4 major transmission line.

5 (5) The commission shall grant the application and issue a
6 certificate if it determines all of the following:

7 (a) The quantifiable and nonquantifiable public benefits of
8 the proposed major transmission line justify its construction.

9 (b) The proposed or alternative route is feasible and
10 reasonable.

11 (c) The proposed major transmission line does not present an
12 unreasonable threat to public health or safety.

13 (d) The applicant has accepted the conditions contained in a
14 conditional grant.

15 (6) A certificate issued under this section shall identify
16 the major transmission line's route and shall contain an
17 estimated cost for the transmission line.

18 (7) If construction of a proposed major transmission line is
19 not begun within 5 years of the date that a certificate is
20 granted, the certificate is invalid and a new certificate shall
21 be required for the proposed major transmission line.

22 Sec. 9. (1) An electric utility, **affiliated transmission**
23 **company, or independent transmission company** may file an
24 application with the commission for a certificate for a proposed
25 transmission line other than a major transmission line. If an
26 electric utility, **affiliated transmission company, or independent**
27 **transmission company** applies for a certificate under this

1 section, the electric utility, **affiliated transmission company,**
2 **or independent transmission company** shall not begin construction
3 of the proposed transmission line until the commission issues a
4 certificate for that transmission line.

5 (2) The commission shall proceed on an application in the
6 same manner as provided in section 8. Except as otherwise
7 provided in subsection (3), the provisions of this act that apply
8 to applications and certificates for major transmission lines
9 apply in the same manner to applications and certificates issued
10 under this section.

11 (3) Section 4 does not apply to a transmission line for which
12 a certificate is sought under this section.

13 Sec. 10. (1) If the commission grants a certificate under
14 this act, that certificate shall take precedence over a
15 conflicting local ordinance, law, rule, regulation, policy, or
16 practice that prohibits or regulates the location or construction
17 of a transmission line for which the commission has issued a
18 certificate.

19 (2) A zoning ordinance or limitation imposed after an
20 electric utility, **affiliated transmission company, or independent**
21 **transmission company** files for a certificate shall not limit or
22 impair the transmission line's construction, operation, or
23 maintenance.

24 (3) In an eminent domain or other related proceeding arising
25 out of or related to a transmission line for which a certificate
26 is issued, a certificate issued under this act is conclusive and
27 binding as to the public convenience and necessity for that

1 transmission line and its compatibility with the public health
2 and safety — or any zoning or land use requirements in effect
3 when the application was filed.

4 Sec. 11. In a civil action in the circuit court ~~pursuant~~
5 ~~to~~ **under** section 4 of the uniform condemnation procedures act,
6 ~~Act No. 87 of the Public Acts of 1980, being section 213.54 of~~
7 ~~the Michigan Compiled Laws— 1980 PA 87, MCL 213.54,~~ the court may
8 grant a limited license to an electric utility, **affiliated**
9 **transmission company, or independent transmission company** for
10 entry on land to conduct preconstruction activity related to a
11 proposed major transmission line or a transmission line if the
12 electric utility, **affiliated transmission company, or independent**
13 **transmission company** has scheduled or held a public meeting in
14 connection with a certificate sought ~~pursuant to section 9~~
15 **under section 7 or 9** and if written notice of the intent to enter
16 the land has been given to each affected landowner on whose
17 property the electric utility, **affiliated transmission company,**
18 **or independent transmission company** wishes to enter. The limited
19 license may be granted upon such terms as justice and equity
20 require. An electric utility, **affiliated transmission company,**
21 **or independent transmission company** that obtains a limited
22 license shall provide each affected land owner with a copy of the
23 limited license. A limited license shall include a description
24 of the purpose of entry, the scope of activities permitted, and
25 the terms and conditions of entry with respect to the time,
26 place, and manner of entry. The court shall not deny a limited
27 license for entry to conduct preconstruction activity for any of

1 the following reasons:

2 (a) A disagreement exists over the proposed route.

3 (b) The electric utility, **affiliated transmission company, or**
4 **independent transmission company** has not yet applied for a
5 certificate.

6 (c) The commission has not yet granted or denied the
7 application.

8 (d) An alleged lack of public convenience or necessity.

9 Sec. 13. (1) Except as otherwise provided in this section,
10 information obtained by the commission under this act is a public
11 record as provided in the freedom of information act, ~~Act~~
12 ~~No. 442 of the Public Acts of 1976, being sections 15.231 to~~
13 ~~15.246 of the Michigan Compiled Laws~~ **1976 PA 442, MCL 15.231 to**
14 **15.246.**

15 (2) An electric utility, **affiliated transmission company, or**
16 **independent transmission company** may designate information
17 received from a third party that the electric utility, **affiliated**
18 **transmission company, or independent transmission company** submits
19 to the commission in an application for a certificate or in other
20 documents required by the commission for purposes of
21 certification submitted to the commission as being only for the
22 confidential use of the commission. The commission shall notify
23 the electric utility, **affiliated transmission company, or**
24 **independent transmission company** of a request for public records
25 under section 5 of ~~Act No. 442 of the Public Acts of 1976, being~~
26 ~~section 15.235 of the Michigan Compiled Laws~~ **the freedom of**
27 **information act, 1976 PA 442, MCL 15.235,** if the scope of the

1 request includes information designated as confidential. The
2 electric utility, **affiliated transmission company, or independent**
3 **transmission company** has 10 days after the receipt of the notice
4 to demonstrate to the commission that the information designated
5 as confidential should not be disclosed because the information
6 is a trade secret or secret process — or is production,
7 commercial, or financial information the disclosure of which
8 would jeopardize the competitive position of the electric
9 utility, **affiliated transmission company, or independent**
10 **transmission company** or the person from whom the information was
11 obtained. The commission shall not grant the request for the
12 information if the electric utility, **affiliated transmission**
13 **company, or independent transmission company** demonstrates to the
14 satisfaction of the commission that the information should not be
15 disclosed for a reason authorized in this section. If the
16 commission makes a decision to grant a request, the information
17 requested shall not be released until 3 days have elapsed after
18 notice of the decision is provided to the electric utility,
19 **affiliated transmission company, or independent transmission**
20 **company**.

21 (3) If any person uses information described in
22 subsection (1) to forecast electrical demand, the person shall
23 structure the forecast so the third party is not identified
24 unless the third party waives confidentiality.

25 Sec. 15. (1) A commission order relating to a certificate
26 or other matter provided for under this act is subject to review
27 as provided in section 26 of ~~Act No. 300 of the Public Acts of~~

1 ~~1909, being section 462.26 of the Michigan Compiled Laws 1909 PA~~
 2 ~~300, MCL 462.26.~~

3 (2) In administering this act, the commission shall have only
 4 those powers and duties granted to the commission under this act.

5 Enacting section 1. This amendatory act does not take
 6 effect unless House Bill No. 5807 of the 92nd Legislature is
 7 enacted into law.