

# HOUSE BILL No. 5530

April 12, 2016, Introduced by Reps. Cole, Glenn, Runestad, Kelly and Aaron Miller and referred to the Committee on Energy Policy.

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

1 certification act, 1995 PA 30, MCL 460.561 to 460.575, and the  
2 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to  
3 213.75, an independent transmission company or an affiliated  
4 transmission company ~~shall have~~ **HAS** the power to condemn property  
5 that is necessary to transmit electric energy for public use except  
6 for both of the following:

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

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

1 application or petition was filed **TO MAKE A DETERMINATION UNDER**  
2 **THIS SUBDIVISION.**

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

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

14 (4) As used in this act:

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

27 (B) **"COMMISSION" MEANS THE MICHIGAN PUBLIC SERVICE COMMISSION.**

1           (C) ~~(b)~~—"Independent transmission company" means a ~~EITHER OF~~  
2 **THE FOLLOWING:**

3           (i) A person, partnership, corporation, association, or other  
4 legal entity, or its successors or assigns, engaged in this state  
5 in the transmission of electricity using facilities it owns ~~that~~  
6 ~~have been divested to the entity by an electric utility that was~~  
7 ~~engaged in the generation, transmission, and distribution of~~  
8 ~~electricity in this state on December 31, 2000, and is independent~~  
9 ~~of an electric utility or~~ **IF THAT ENTITY IS NOT** an affiliate of the  
10 **AN ELECTRIC** utility ~~—~~generating or distributing electricity to  
11 retail customers in this state.

12           (ii) **A PERSON, PARTNERSHIP, CORPORATION, ASSOCIATION, OR OTHER**  
13 **LEGAL ENTITY, OR ITS SUCCESSORS OR ASSIGNS, THAT HOLDS A**  
14 **CERTIFICATE ISSUED BY THE COMMISSION UNDER THE ELECTRIC**  
15 **TRANSMISSION LINE CERTIFICATION ACT, 1995 PA 30, MCL 460.561 TO**  
16 **460.575, IF THAT ENTITY IS NOT AN AFFILIATE OF AN ELECTRIC UTILITY**  
17 **GENERATING OR DISTRIBUTING ELECTRICITY TO RETAIL CUSTOMERS IN THIS**  
18 **STATE.**