

# SENATE BILL No. 1105

October 18, 2016, Introduced by Senator SHIRKEY and referred to the Committee on Energy and Technology.

A bill to amend 1995 PA 30, entitled "Electric transmission line certification act," by amending sections 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 (MCL 460.562, 460.564, 460.565, 460.566, 460.567, 460.568, 460.569, 460.570, 460.571, 460.572, and 460.573), sections 2, 4, 5, 6, 7, 8, 9, 10, 11, and 13 as amended by 2004 PA 198.

**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~~ **THAT** has fully satisfied the  
 5       requirements to join a regional transmission organization as  
 6       determined by the ~~federal energy regulatory commission,~~**FEDERAL**  
 7       **ENERGY REGULATORY COMMISSION**, is engaged in this state in the

1 transmission of electricity using facilities it owns that were  
2 transferred to the entity by an electric utility that was engaged  
3 in the generation, transmission, and distribution of electricity in  
4 this state on December 31, 2000, and is not independent of an  
5 electric utility or an affiliate of the utility, generating or  
6 distributing electricity to retail customers in this state.

7 (b) "Certificate" means a certificate of public convenience  
8 and necessity issued for a major transmission line under this act  
9 or issued for a transmission line under section 9.

10 (c) "Commission" means the Michigan public service commission.

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

16 (e) "Electric utility" means a person, partnership,  
17 corporation, association, or other legal entity whose transmission  
18 or distribution of electricity the commission regulates under 1909  
19 PA 106, MCL 460.551 to 460.559, or 1939 PA 3, MCL 460.1 to  
20 ~~460.10cc.~~ **460.11**. Electric utility does not include a municipal  
21 utility, affiliated transmission company, **QUALIFIED TRANSMISSION**  
22 **COMPANY**, or independent transmission company.

23 (F) **"FERC COMPETITIVE PROJECT" MEANS A TRANSMISSION PROJECT**  
24 **AWARDED BY THE FEDERAL ENERGY REGULATORY COMMISSION OR THE**  
25 **APPROPRIATE REGIONAL TRANSMISSION ORGANIZATION AS PART OF EITHER**  
26 **FEDERAL ENERGY REGULATORY COMMISSION ORDER 1000 OR ANOTHER**  
27 **COMPETITIVE BIDDING PROCESS.**

1           (G) ~~(f)~~—"Independent transmission company" means a person,  
2 partnership, corporation, association, or other legal entity, or  
3 its successors or assigns, engaged in this state in the  
4 transmission of electricity using facilities it owns that have been  
5 divested to the entity by an electric utility that was engaged in  
6 the generation, transmission, and distribution of electricity in  
7 this state on December 31, 2000, and is independent of an electric  
8 utility or an affiliate of the utility, generating or distributing  
9 electricity to retail customers in this state.

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

16           (I) ~~(h)~~—"Municipality" means a city, township, or village.

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

26           (K) **"QUALIFIED TRANSMISSION COMPANY" MEANS A PERSON,**  
27 **PARTNERSHIP, CORPORATION, OR OTHER LEGAL ENTITY, OR ITS SUCCESSORS**

1 OR ASSIGNS, OTHER THAN AN AFFILIATED TRANSMISSION COMPANY OR AN  
2 INDEPENDENT TRANSMISSION COMPANY, THAT IS DESIGNATED BY THE FEDERAL  
3 ENERGY REGULATORY COMMISSION OR THE APPROPRIATE REGIONAL  
4 TRANSMISSION ORGANIZATION AS A QUALIFIED TRANSMISSION DEVELOPER AND  
5 THAT MEETS EITHER OF THE FOLLOWING:

6 (i) HAS BEEN GRANTED OR IS APPLYING FOR A CERTIFICATE ISSUED  
7 BY THE COMMISSION UNDER SECTION 8 OR 9 FOR THE CONSTRUCTION OF A  
8 TRANSMISSION PROJECT THAT EITHER HAS BEEN OR IS ANTICIPATED TO BE  
9 INCLUDED IN A REGIONAL TRANSMISSION PLAN APPROVED BY EITHER THE  
10 FEDERAL ENERGY REGULATORY COMMISSION OR THE APPROPRIATE REGIONAL  
11 TRANSMISSION ORGANIZATION.

12 (ii) IS CONDUCTING ACTIVITIES LISTED UNDER SECTION 5(2)(B).

13 (l) ~~(j)~~—"Route" means real property on or across which a  
14 transmission line is constructed or proposed to be constructed.

15 (m) ~~(k)~~—"Transmission line" means all structures, equipment,  
16 and real property necessary to transfer electricity at system bulk  
17 supply voltage of 100 kilovolts or more.

18 Sec. 4. (1) If an electric utility that has 50,000 or more  
19 residential customers in this state, affiliated transmission  
20 company, **QUALIFIED TRANSMISSION COMPANY**, or an independent  
21 transmission company plans to construct a major transmission line  
22 in this state in the 5 years after planning commences, the electric  
23 utility, affiliated transmission company, **QUALIFIED TRANSMISSION**  
24 **COMPANY**, or independent transmission company shall submit a  
25 construction plan to the commission. An electric utility with fewer  
26 than 50,000 residential customers in this state may submit a plan  
27 under this section. A plan shall include all of the following:

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

3 (b) Copies of relevant bulk power transmission information  
4 filed by the electric utility, affiliated transmission company,  
5 **QUALIFIED TRANSMISSION COMPANY**, or independent transmission company  
6 with any state or federal agency, national electric reliability  
7 coalition, or regional electric reliability coalition.

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

10 (2) At the same time the electric utility, affiliated  
11 transmission company, **QUALIFIED TRANSMISSION COMPANY**, or  
12 independent transmission company submits a construction plan to the  
13 commission under subsection (1), the electric utility, affiliated  
14 transmission company, **QUALIFIED TRANSMISSION COMPANY**, or  
15 independent transmission company shall provide a copy of the  
16 construction plan to each municipality in which construction of the  
17 planned major transmission line is intended.

18 Sec. 5. (1) An electric utility, affiliated transmission  
19 company, **QUALIFIED TRANSMISSION COMPANY**, or independent  
20 transmission company shall not begin construction of a major  
21 transmission line for which a plan has been submitted under section  
22 4 until the commission issues a certificate for that transmission  
23 line.

24 (2) Except as otherwise provided in section 9, a certificate  
25 of public convenience and necessity under this act is not required  
26 for **EITHER OF THE FOLLOWING:**

27 (A) **AN ELECTRIC UTILITY, AFFILIATED TRANSMISSION COMPANY, OR**

1 **INDEPENDENT TRANSMISSION COMPANY THAT IS** constructing a new  
2 transmission line other than a major transmission line. ~~or~~

3 **(B) AN ELECTRIC UTILITY, AFFILIATED TRANSMISSION COMPANY,**  
4 **QUALIFIED TRANSMISSION COMPANY, OR INDEPENDENT TRANSMISSION COMPANY**  
5 for reconstructing, repairing, replacing, or improving an existing  
6 transmission line, including the addition of circuits to an  
7 existing transmission line.

8 Sec. 6. (1) Before applying for a certificate under section 5,  
9 an electric utility, affiliated transmission company, **QUALIFIED**  
10 **TRANSMISSION COMPANY,** or independent transmission company shall  
11 schedule and hold a public meeting in each municipality through  
12 which a proposed major transmission line for which a plan has been  
13 submitted under section 4 would pass. A public meeting held in a  
14 township satisfies the requirement that a public meeting be held in  
15 each affected village located within the township.

16 (2) In the 60 days before a public meeting held under  
17 subsection (1), the electric utility, affiliated transmission  
18 company, **QUALIFIED TRANSMISSION COMPANY,** or independent  
19 transmission company shall offer in writing to meet with the chief  
20 elected official of each affected municipality or his or her  
21 designee to discuss the utility's, affiliated transmission  
22 company's, **QUALIFIED TRANSMISSION COMPANY'S,** or independent  
23 transmission company's desire to build the major transmission line  
24 and to explore the routes to be considered.

25 Sec. 7. (1) An electric utility that has 50,000 or more  
26 residential customers in this state, an affiliated transmission  
27 company, **QUALIFIED TRANSMISSION COMPANY,** or an independent

1 transmission company shall apply to the commission for a  
2 certificate for a proposed major transmission line. An applicant  
3 may withdraw an application at any time.

4 (2) An application for a certificate ~~shall~~**MUST** contain all of  
5 the following:

6 (a) The planned date for beginning construction.

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

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

12 (d) If a zoning ordinance prohibits or regulates the location  
13 or development of any portion of a proposed route, a description of  
14 the location and manner in which that zoning ordinance prohibits or  
15 regulates the location or construction of the proposed route.

16 (e) The estimated overall cost of the proposed major  
17 transmission line, **AS WELL AS, IN THE CASE OF A FERC COMPETITIVE**  
18 **PROJECT, FULL AND COMPLETE DETAILS OF ANY COST CONTAINMENT**  
19 **MECHANISMS ASSOCIATED WITH THE PROJECT.**

20 (f) Information supporting the need for the proposed major  
21 transmission line, including identification of known future  
22 wholesale users of the proposed major transmission line.

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

25 (h) Estimated private benefits of the proposed major  
26 transmission line to the applicant or any legal entity that is  
27 affiliated with the applicant.

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

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

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

8 (l) Other information reasonably required by the commission  
9 pursuant to rule.

10 Sec. 8. (1) Upon applying for a certificate, the electric  
11 utility, affiliated transmission company, **QUALIFIED TRANSMISSION**  
12 **COMPANY**, or independent transmission company shall give public  
13 notice in the manner and form the commission prescribes of an  
14 opportunity to comment on the application. Notice shall be  
15 published in a newspaper of general circulation in the area to be  
16 affected within a reasonable time period after an application is  
17 provided to the commission and shall be sent to each affected  
18 municipality and each affected landowner on whose property a  
19 portion of the proposed major transmission line will be  
20 constructed. The notice shall be written in plain, nontechnical,  
21 and easily understood terms and shall contain a title that includes  
22 the name of the electric utility, affiliated transmission company,  
23 **QUALIFIED TRANSMISSION COMPANY**, or independent transmission company  
24 and the words "NOTICE OF INTENT TO CONSTRUCT A MAJOR TRANSMISSION  
25 LINE".

26 (2) The commission shall conduct a proceeding on the  
27 application as a contested case under the administrative procedures



1 act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Upon receiving an  
2 application for a certificate, each affected municipality and each  
3 affected landowner shall be granted full intervenor status as of  
4 right in commission proceedings concerning the proposed major  
5 transmission lines.

6 (3) The commission may assess certificate application fees  
7 from the electric utility, affiliated transmission company,  
8 **QUALIFIED TRANSMISSION COMPANY**, or independent transmission company  
9 to cover the commission's administrative costs in processing the  
10 application and may require the electric utility, affiliated  
11 transmission company, **QUALIFIED TRANSMISSION COMPANY**, or  
12 independent transmission company to hire consultants chosen by the  
13 commission to assist the commission in evaluating those issues the  
14 application raises.

15 (4) The commission shall grant or deny the application for a  
16 certificate not later than 1 year after the application's filing  
17 date. If a party submits an alternative route for the proposed  
18 major transmission line, the commission shall grant the application  
19 for either the electric utility's, affiliated transmission  
20 company's, **QUALIFIED TRANSMISSION COMPANY'S**, or independent  
21 transmission company's proposed route or 1 alternative route or  
22 shall deny the application. The commission may condition its  
23 approval upon the applicant taking additional action to assure the  
24 public convenience, health, and safety and reliability of the  
25 proposed major transmission line.

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

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

3 (b) The proposed or alternative route is feasible and  
4 reasonable.

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

7 (d) The applicant has accepted the conditions contained in a  
8 conditional grant.

9 **(E) IN THE CASE OF A FERC COMPETITIVE PROJECT, THAT THE**  
10 **APPLICANT HAS SUBMITTED DETAILS OF BINDING COST CONTAINMENT**  
11 **MECHANISMS THAT ARE BEING USED FOR THE PROJECT.**

12 (6) A certificate issued under this section shall identify the  
13 major transmission line's route and shall contain an **APPROVED**  
14 estimated cost for the transmission line.

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

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

1 transmission company shall not begin construction of the proposed  
2 transmission line until the commission issues a certificate for  
3 that transmission line.

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

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

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

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

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

1 safety or any zoning or land use requirements in effect when the  
2 application was filed.

3       Sec. 11. In a civil action in the circuit court under section  
4 4 of the uniform condemnation procedures act, 1980 PA 87, MCL  
5 213.54, the court may grant a limited license to an electric  
6 utility, affiliated transmission company, **QUALIFIED TRANSMISSION**  
7 **COMPANY**, or independent transmission company for entry on land to  
8 conduct preconstruction activity related to a proposed major  
9 transmission line or a transmission line if the electric utility,  
10 affiliated transmission company, **QUALIFIED TRANSMISSION COMPANY**, or  
11 independent transmission company has scheduled or held a public  
12 meeting in connection with a certificate sought under section 7 or  
13 9 and if written notice of the intent to enter the land has been  
14 given to each affected landowner on whose property the electric  
15 utility, affiliated transmission company, **QUALIFIED TRANSMISSION**  
16 **COMPANY**, or independent transmission company wishes to enter. The  
17 limited license may be granted upon such terms as justice and  
18 equity require. An electric utility, affiliated transmission  
19 company, **QUALIFIED TRANSMISSION COMPANY**, or independent  
20 transmission company that obtains a limited license shall provide  
21 each affected land owner with a copy of the limited license. A  
22 limited license shall include a description of the purpose of  
23 entry, the scope of activities permitted, and the terms and  
24 conditions of entry with respect to the time, place, and manner of  
25 entry. The court shall not deny a limited license for entry to  
26 conduct preconstruction activity for any of the following reasons:

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

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

4 (c) The commission has not yet granted or denied the  
5 application.

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

7 Sec. 12. Reasonable and prudent costs for a transmission line  
8 for which a certificate is issued shall be included in an electric  
9 utility's rates. The commission shall not disallow costs the  
10 electric utility incurs in constructing a transmission line for  
11 which a certificate is issued, which costs do not exceed the  
12 **APPROVED ESTIMATED COST** amount set forth in the certificate unless  
13 the commission determines that the actual costs were imprudently  
14 and unreasonably incurred, based upon substantial evidence  
15 presented in opposition to the electric utility's rate request.  
16 Costs incurred by the electric utility that exceed the **APPROVED**  
17 **ESTIMATED COST** amount set forth in the certificate shall be  
18 included in the electric utility's rates, if reasonably and  
19 prudently incurred based upon substantial evidence presented in  
20 support of the electric utility's rate request.

21 Sec. 13. (1) Except as otherwise provided in this section,  
22 information obtained by the commission under this act is a public  
23 record as provided in the freedom of information act, 1976 PA 442,  
24 MCL 15.231 to 15.246.

25 (2) An electric utility, affiliated transmission company,  
26 **QUALIFIED TRANSMISSION COMPANY**, or independent transmission company  
27 may designate information received from a third party that the

1 electric utility, affiliated transmission company, or independent  
2 transmission company submits to the commission in an application  
3 for a certificate or in other documents required by the commission  
4 for purposes of certification submitted to the commission as being  
5 only for the confidential use of the commission. The commission  
6 shall notify the electric utility, affiliated transmission company,  
7 **QUALIFIED TRANSMISSION COMPANY**, or independent transmission company  
8 of a request for public records under section 5 of the freedom of  
9 information act, 1976 PA 442, MCL 15.235, if the scope of the  
10 request includes information designated as confidential. The  
11 electric utility, affiliated transmission company, **QUALIFIED**  
12 **TRANSMISSION COMPANY**, or independent transmission company has 10  
13 days after the receipt of the notice to demonstrate to the  
14 commission that the information designated as confidential should  
15 not be disclosed because the information is a trade secret or  
16 secret process or is production, commercial, or financial  
17 information the disclosure of which would jeopardize the  
18 competitive position of the electric utility, affiliated  
19 transmission company, **QUALIFIED TRANSMISSION COMPANY**, or  
20 independent transmission company or the person from whom the  
21 information was obtained. The commission shall not grant the  
22 request for the information if the electric utility, affiliated  
23 transmission company, **QUALIFIED TRANSMISSION COMPANY**, or  
24 independent transmission company demonstrates to the satisfaction  
25 of the commission that the information should not be disclosed for  
26 a reason authorized in this section. If the commission makes a  
27 decision to grant a request, the information requested shall not be

1 released until 3 days have elapsed after notice of the decision is  
2 provided to the electric utility, affiliated transmission company,  
3 or independent transmission company.

4 (3) If any person uses information described in subsection (1)  
5 to forecast electrical demand, the person shall structure the  
6 forecast so the third party is not identified unless the third  
7 party waives confidentiality.