

# SENATE BILL No. 1106

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

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  
2 certification act, 1995 PA 30, MCL 460.561 to 460.575, and the  
3 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to

1 213.75, an independent transmission company, **QUALIFIED TRANSMISSION**  
2 **COMPANY**, or an affiliated transmission company ~~shall have~~ **HAS** the  
3 power to condemn property that is necessary to transmit electric  
4 energy for public use except for ~~both~~ **ALL** of the following:

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

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

1 HAS up to 210 days from the date the application or petition was  
2 filed TO MAKE A DETERMINATION UNDER THIS SUBDIVISION.

3 (C) WHEN A CERTIFICATE IS NECESSARY OR HAS BEEN APPLIED FOR  
4 UNDER THE ELECTRIC TRANSMISSION LINE CERTIFICATION ACT, 1995 PA 30,  
5 MCL 460.561 TO 460.575, A QUALIFIED TRANSMISSION COMPANY SHALL NOT  
6 CONDEMN PROPERTY UNLESS BOTH OF THE FOLLOWING APPLY:

7 (i) THE FEDERAL ENERGY REGULATORY COMMISSION OR APPROPRIATE  
8 REGIONAL TRANSMISSION ORGANIZATION HAS FORMALLY DESIGNATED OR  
9 OTHERWISE APPROVED THAT TRANSMISSION LINE PROJECT FOR THE QUALIFIED  
10 TRANSMISSION COMPANY.

11 (ii) THE COMMISSION HAS REVIEWED THE NECESSITY OF THE  
12 CONDEMNATION OF PROPERTY ASSOCIATED WITH A PROJECT APPROVED UNDER  
13 SUBPARAGRAPH (i) AND HAS GRANTED THE QUALIFIED TRANSMISSION COMPANY  
14 A CERTIFICATE FOR THAT TRANSMISSION LINE PROJECT UNDER SECTION 8 OR  
15 SECTION 9 OF THE ELECTRIC TRANSMISSION LINE CERTIFICATION ACT, 1995  
16 PA 30, MCL 460.568 AND 460.569.

17 (2) Except as otherwise provided under this section, in  
18 condemning property under subsection (1), an independent  
19 transmission company, **QUALIFIED TRANSMISSION COMPANY**, or affiliated  
20 transmission company is subject to the same procedures and  
21 requirements under this act as a corporation formed under this act.

22 (3) Section 3(1) and any procedure or requirement under this  
23 act that is inconsistent with the electric transmission line  
24 certification act, 1995 PA 30, MCL 460.561 to 460.575, or the  
25 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to  
26 213.75, do not apply to an independent transmission company,  
27 **QUALIFIED TRANSMISSION COMPANY**, or affiliated transmission company.

1 (4) 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  
8 transmission of electricity using facilities it owns that were  
9 transferred to the entity by an electric utility that was engaged  
10 in the generation, transmission, and distribution of electricity in  
11 this state on December 31, 2000, and is not independent of an  
12 electric utility or an affiliate of the utility, generating or  
13 distributing electricity to retail customers in this state.

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

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

24 (D) **"QUALIFIED TRANSMISSION COMPANY" MEANS A PERSON,**  
25 **PARTNERSHIP, CORPORATION, OR OTHER LEGAL ENTITY, OR ITS SUCCESSORS**  
26 **OR ASSIGNS, OTHER THAN AN AFFILIATED TRANSMISSION COMPANY OR AN**  
27 **INDEPENDENT TRANSMISSION COMPANY, THAT IS DESIGNATED BY THE FEDERAL**

1 ENERGY REGULATORY COMMISSION OR THE APPROPRIATE REGIONAL  
2 TRANSMISSION ORGANIZATION AS A QUALIFIED TRANSMISSION DEVELOPER AND  
3 THAT MEETS EITHER OF THE FOLLOWING:

4 (i) HAS BEEN GRANTED OR IS APPLYING FOR A CERTIFICATE ISSUED  
5 BY THE COMMISSION UNDER SECTION 8 OR SECTION 9 OF THE ELECTRIC  
6 TRANSMISSION LINE CERTIFICATION ACT, 1995 PA 30, MCL 460.568 AND  
7 460.569, FOR THE CONSTRUCTION OF A TRANSMISSION PROJECT THAT EITHER  
8 HAS BEEN OR IS ANTICIPATED TO BE INCLUDED IN A REGIONAL  
9 TRANSMISSION PLAN APPROVED BY EITHER THE FEDERAL ENERGY REGULATORY  
10 COMMISSION OR THE APPROPRIATE REGIONAL TRANSMISSION ORGANIZATION.

11 (ii) IS CONDUCTING ACTIVITIES LISTED UNDER SECTION 5(2)(B) OF  
12 THE ELECTRIC TRANSMISSION LINE CERTIFICATION ACT, 1995 PA 30, MCL  
13 460.565.