

# HOUSE BILL NO. 4806

May 06, 2021, Introduced by Reps. Markkanen, Steven Johnson, Reilly and LaFave and referred to the Committee on Energy.

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  
4       213.75, an independent transmission company or an affiliated  
5       transmission company ~~shall have~~ **has** the power to condemn property  
6       that is necessary to transmit electric energy for public use except  
7       for both of the following:

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

14      (b) An independent transmission company or affiliated  
15      transmission company shall not condemn property owned by an  
16      electric or gas utility or municipally owned utility in a manner  
17      ~~which~~ **that** unreasonably disrupts the ability of the electric or gas  
18      utility or municipally owned utility to continue to provide service  
19      to its customers. If a dispute exists under this subdivision, the  
20      condemnation ~~shall~~ **must** not proceed until the ~~Michigan public~~  
21      ~~service~~ commission determines that no unreasonable disruption is  
22      involved. The commission shall make its determination under this  
23      subdivision pursuant to a contested case under the administrative  
24      procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, within

1 180 days ~~of~~**after** the date an application or petition requesting a  
 2 determination is filed with the commission. If the principal  
 3 parties of record agree that the complexity of dispute involved  
 4 requires additional time, the commission ~~may have~~**has** up to 210  
 5 days ~~from~~**after** the date the application or petition was filed **to**  
 6 **make a determination under this subdivision.**

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

12 (3) Section 3(1) and any procedure or requirement under this  
 13 act that is inconsistent with the electric transmission line  
 14 certification act, 1995 PA 30, MCL 460.561 to 460.575, or the  
 15 uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to  
 16 213.75, do not apply to an independent transmission company or  
 17 affiliated transmission company.

18 (4) As used in this act:

19 (a) "Affiliated transmission company" means ~~a~~**either of the**  
 20 **following:**

21 (i) **A** person, partnership, corporation, association, or other  
 22 legal entity, or its successors or assigns, ~~which~~**that** has fully  
 23 satisfied the requirements to join a regional transmission  
 24 organization, ~~as determined by the federal energy regulatory~~  
 25 ~~commission,~~**that is considered a qualified transmission developer**  
 26 **by a regional transmission organization, that** is engaged ~~in this~~  
 27 ~~state in the transmission of electricity, using facilities it owns~~  
 28 ~~that were transferred to the entity by an electric utility that was~~  
 29 ~~engaged in the generation, transmission, and distribution of~~

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

5 (ii) A person, partnership, corporation, association, or other  
6 legal entity that is an affiliate of an electric utility generating  
7 or distributing electricity to retail customers in this state.

8 (b) "Affiliated transmission company" does not include an  
9 electric utility.

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

11 (d) ~~(b)~~—"Independent transmission company" means ~~a~~**either of**  
12 **the following:**

13 (i) A person, partnership, corporation, association, or other  
14 legal entity, or its successors or assigns, **that is** engaged in this  
15 state in the transmission of electricity using facilities it owns  
16 that have been divested to the entity by an electric utility that  
17 was engaged in the generation, transmission, and distribution of  
18 electricity in this state on December 31, 2000, and **that** is  
19 independent of an electric utility or an affiliate of the utility,  
20 generating or distributing electricity to retail customers in this  
21 state.

22 (ii) A person, partnership, corporation, association, or other  
23 legal entity, that holds a certificate issued by the commission  
24 under the electric transmission line certification act, 1995 PA 30,  
25 MCL 460.561 to 460.575, if that entity is not an affiliate of an  
26 electric utility generating or distributing electricity to retail  
27 customers in this state.