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Senate Bill 103 (as introduced 2-4-21)
Sponsor: Senator Wayne A. Schmidt
Committee: Energy and Technology

Date Completed: 2-16-21

CONTENT

The bill would enact the "Transmission Infrastructure Planning and Condemnation Authority Act" to do the following:

- Specify that an incumbent electric transmission company would have the right to construct, own, operate, maintain, and control a high-voltage transmission line if the high voltage transmission line or its construction were included in a plan adopted or otherwise approved by a recognized electric planning authority for the incumbent electric transmission company and the company met certain requirements.**
- Specify that right to construct, own, operate, maintain, and control a high-voltage transmission line that would interconnect to facilities owned by two or more incumbent electric transmission companies would belong individually and equally to each incumbent electric transmission company, unless otherwise agreed to in writing by each company.**
- Specify that the bill would not alter or limit the right of a person to construct, own, operate, maintain, and control an electric transmission line in the State that was not a high-voltage transmission line.**

Definitions

Under the bill, "incumbent electric transmission company" would mean an electric utility, affiliated transmission company, or independent transmission company that owns, operates, maintains and controls a high-voltage transmission line in the State. "High voltage transmission line" would mean a line used to transmit electricity and all associated structures, equipment, facilities, and other personal property necessary to transfer electricity over the line at a system bulk supply voltage of 100 kilovolts or more.

"Electric utility" would mean any of the following:

- An electric utility as that term is defined in Section 10h of Public Act 3 of 1939.
- A municipal electric utility system as that term is defined in Section 4 of the Michigan Energy Employment Act.
- A cooperative electric utility.

(Under Public Act 3 of 1939, "electric utility" means that term as defined in the Electric Transmission Line Certification Act: a person, partnership, corporation, association, or other legal entity whose transmission or distribution of electricity the Michigan Public Service Commission (MPSC) regulates. Section 4 of the Michigan Energy Employment Act defines

"municipal electric utility system" as a system owned by a municipality or combination of municipalities to furnish heat, power, and light.)

"Affiliated transmission company" would mean that term as defined in Section 2 of the Electric Transmission Line Certification Act: a person, partnership, corporation, association, or other legal entity, or its successors or assigns, which has fully satisfied the requirements to join a regional transmission organization as determined by Federal Energy Regulatory Commission (FERC), is engaged in the State in the transmission of electricity using facilities it owns that were transferred to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in the State on December 31, 2000, and is not independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in the State.

"Independent transmission company" would mean that term as defined in Section 2 of the Electric Transmission Line Certification Act: a person, partnership, corporation, association, or other legal entity, or its successors or assigns, engaged in the State in the transmission of electricity using facilities it owns that have been divested to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in the State on December 31, 2000, and is independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in the State.

"Recognized electric planning authority" would mean a person recognized by FERC or the North American Reliability Corporation as authorized under Federal law to approve a high-voltage transmission line for construction by an incumbent electric transmission company, including a regional transmission organization. "Regional transmission organization" would mean a person that meets all the following:

- Possesses characteristics required under 18 CFR 35.34(j).
- Performs functions required under 18 CFR 35.34(k).
- Accommodates an open architecture as required under 18 CFR 35.34(l).
- Is recognized by FERC as the organization with oversight responsibility for a region that includes the service territory of an incumbent electric transmission company.

(Generally, under 18 CFR 35.34(j), (k), and (l), a regional transmission organization must demonstrate independence from any market participant, must perform certain functions, such as tariff administration, tariff design, and congestion management, and may not have any provision that limits its capability to evolve in ways that would improve its efficiency.)

"Cooperative electric utility" would mean either an electric cooperative organized as a cooperative under Section 98 to 109 of Public Act 327 of 1931 or a cooperative cooperation in the business of generating or transmitting electricity. (Public Act 327 of 1931 provides for the organization, regulation, and classification of corporations in Michigan. Section 98 of Public Act 327 concerns the applicability of the Act to corporations limiting dividends or voting rights and conducting not more than 50% of business with nonstockholders or nonmembers.)

Incumbent Electric Transmission Company Rights

Under the bill, an incumbent electric transmission company would have the right to construct, own, operate, maintain, and control a high-voltage transmission line if the high voltage transmission line or its construction were included in a plan adopted or otherwise approved by a recognized electric planning authority for the incumbent electric transmission company and either of the following applied:

- The incumbent electric transmission company was recognized as a designated transmission owner for the high-voltage transmission line by the recognized electric planning authority for the incumbent electric transmission owner.
- The high voltage transmission line would interconnect to facilities owned, or that would be owned, by that incumbent electric transmission company.

The right to construct, own, operate, maintain, and control a high-voltage transmission line that would interconnect to facilities owned by two or more incumbent electric transmission companies would belong individually and equally to each incumbent electric transmission company, unless otherwise agreed to in writing by each company.

An incumbent electric transmission company would have the right to upgrade or rebuild a high-voltage transmission line owned by that company.

Limitations of the Act

The bill specifies that it would not alter or limit the right of a person to construct, own, operate, maintain, and control an electric transmission line in the State that was not a high-voltage transmission line. In addition, the bill would control in any conflict between it and any other State law.

The bill would not do any of the following:

- Confer the power of eminent domain.
- Modify the authority of the MPSC under Public Act 3 of 1939.
- Modify the rights of property owners under the Uniform Condemnation Procedures Act.
- Modify the requirements, rights, and obligations of an incumbent electric transmission company under the Electric Transmission Line Certification Act.

(Public Act 3 of 1939 creates the MPSC and provides for its powers and duties. The Uniform Procedures Condemnation Act provides procedures for the condemnation, acquisition, or exercise of eminent domain of real or personal property in the State. The Electric Transmission Line Certification Act requires an electric utility, affiliated transmission company, or independent transmission company to receive a certificate issued by the MPSC before beginning construction of a major transmission line, among other requirements.)

Legislative Analyst: Tyler VanHuyse

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Department of Licensing and Regulatory Affairs and on local units of government.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.