

ISSUE BRIEF

December 20, 2023 | PA 30 of 1995

Electric Transmission Line Siting



What is Public Act 30 of 1995 (the Electric Transmission Line Certification Act)?

[Public Act 30 of 1995](#) (“Act 30”), also known as the Electric Transmission Line Certification Act, is the law that grants siting authority to the Commission for electric transmission lines. The act establishes a process through which a transmission line owner may apply to receive a Certificate of Public Convenience and Necessity for proposed transmission lines. Under the law, a transmission line owner must apply for a Certificate of Public Convenience and Necessity from the Commission for any transmission lines that are greater than 5 miles in length and transfer power at 345 kilovolts or more.

What is a Certificate of Public Convenience and Necessity?

A Certificate of Public Convenience and Necessity (CPCN) is a type of permit that grants permission to a company to provide a certain service, to operate, or to build something in a certain area. A CPCN may only be issued where the issuing regulatory agency has found that the service, operation, or thing proposed to be built is necessary and in the public interest.

What is an Act 30 case?

An Act 30 case is a case filed by a transmission line owner that requests a CPCN from the Commission for a proposed transmission line. An Act 30 case is a contested case for which the Commission must issue an order on the application within one year of receiving the application. The Commission may do one of three things: 1) grant approval of the preferred route, 2) grant approval of an alternate route proposed by the transmission line owner, or 3) deny the request by the transmission line owner to site the proposed electric transmission lines.

What does a transmission line owner have to do before filing an Act 30 case?

Before filing an Act 30 case, a transmission line owner must:

- File a construction plan with the Commission.
- Provide the construction plan to impacted municipalities and offer to meet with the highest elected official or their designee within the impacted municipalities.
- Hold a public meeting in each municipality through which the proposed transmission line would be built.

These requirements are referred to as “pre-filing requirements.”



Electric Transmission Line Siting - Public Act 30 of 1995

How does a transmission line owner initiate an Act 30 case?

After a transmission line owner has completed the pre-filing requirements, it files an application for a CPCN seeking approval of a preferred or alternate route. The application includes expert witness testimony and evidentiary exhibits that support the request.

Upon filing the application, the transmission line owner must provide notice of the filing of the application within the area of the proposed line by publishing a notice in a newspaper of general circulation. The transmission line owner must also provide notice of the application to each impacted municipality and each landowner on whose property the transmission line is proposed to be built (impacted landowners).

Act 30 cases are contested cases that are governed by the Administrative Procedures Act of 1969 and subject to Administrative Hearing Rules, as well as rules of evidence and procedure. An administrative law judge (ALJ) presides over the case including setting the case schedule and ruling on intervention requests.

Who may participate in an Act 30 case?

The transmission line owner and MPSC Staff will participate in the case. Impacted municipalities and impacted landowners are also able to participate (“intervene”) “by right.” This means that they must be allowed to participate in the case as long as they meet the deadline to do so. Other interested parties may request to participate in the case and may be granted status as an intervenor if the ALJ finds they meet the permissive intervention criteria.

What are the criteria for permissive intervention?

In order to be granted permissive intervention, a potential intervenor must demonstrate that they would likely suffer a harm and that their affected interest is within the “zone of interests” designed to be regulated or protected by the statutes involved in the case. The ALJ will review the petition for intervention to determine whether the potential intervenor meets the required criteria.

How does someone become an intervenor?

An individual seeking to intervene must file an appearance and an application to intervene in the case. Intervention is governed by Rule 306 of the [Administrative Hearing Rules](#).

When is the deadline for potential intervenors to file for intervention?

The deadline for intervention is 7 days before the first hearing or prehearing conference unless a different deadline is set in the notice of hearing. Interventions are governed by Rules 410–412 of the Commission’s [Rules of Practice and Procedure before the Commission](#). Late intervention may be granted in limited circumstances.

Electric Transmission Line Siting - Public Act 30 of 1995

Does an intervenor need to hire an attorney?

An individual seeking to intervene in an Act 30 case may represent him or herself without the assistance of legal counsel. However, all parties to the case, including individuals participating without legal counsel, must comply with rules of evidence and procedure. Entities other than an individual (i.e., businesses, governments, etc.) must be represented by legal counsel in order to participate in the case. Neither the Commission nor Commission Staff can offer legal advice to impacted landowners or others wishing to intervene.

How does the transmission line owner determine the route of the proposed line?

The transmission line owner generally contracts with a third party to conduct a routing study. The routing study analyzes hundreds of possible routes and route segments based upon several criteria. The routing study helps the transmission line operator determine the routes with the least overall impact and these generally become the proposed and alternative routes considered in the Act 30 case. Engineering, social, and environmental routing criteria are evaluated throughout the routing study which is generally available to the public as part of the application filed with the Commission and available through the Commission's [E-dockets system](#).

What is meant by routing criteria and what are some of the factors that are considered in determining them?

Routing criteria are used to score and evaluate routes and route segments to assess the overall impact of the proposed and alternative routes. There are several factors used in determining route criteria. Examples of routing criteria include, but are not limited to: Engineering criteria such as the angles necessary to traverse the route (angles that are greater than 30 degrees need to be avoided), total length of the route, and road crossings; social criteria such as the acres of new right-of-way required, proximity of residences near the proposed line, residences with unobstructed view, proximity of public buildings, archaeological sites within the right-of-way, historical sites, and the number of parcels crossed; and environmental criteria such as woodland within the right-of-way, wetlands within the right-of-way, streams crossed, hazardous material sites, endangered species, and soil geology.

Who determines and evaluates the routing criteria?

Routing criteria are determined by the transmission owner. While the Commission does not have authority to specifically evaluate each of the routing criteria, the routing criteria are a part of the Commission's consideration regarding the reasonableness of the route and public health and safety impacts. The Commission may condition its approval upon the applicant taking additional action to assure the public convenience, health, safety, and reliability of the transmission line.

Electric Transmission Line Siting - Public Act 30 of 1995

What is the process for approval of an Act 30 case?

First, parties to the case will review the application, testimony, and exhibits provided by the transmission line owner. They will have an opportunity to ask questions of the transmission line owner through the discovery process and will have the opportunity to submit their own expert witness testimony and evidentiary exhibits.

Next, witnesses will be subject to cross examination where their positions and evidence will be tested. Once cross-examination is completed, parties will have the opportunity to make legal arguments, based on the record of evidence, through legal briefs.

At this point, the ALJ may issue a proposal for decision (PFD) which summarizes the issues in the case and makes recommendations to the Commission based on the record of evidence and applicable law. The Commission may also choose to “read the record.” If the application is reviewed as a “read the record” case, a PFD will not be issued. A determination regarding whether a PFD will be issued or whether the Commission will “read the record” will be made at the beginning of the case.

Once a PFD is issued, or briefs are filed in a “read the record” case, the Commission will review the evidence submitted in the case and compare it to the requirements outlined in the statute to reach its decision. The Commission may approve or deny the application and must base its decision on the evidence in the record and applicable law.

What must the Commission find in order to approve the proposed or alternate route?

The law requires that the Commission grant an Act 30 application and issue a CPCN if it determines all of the following:

- The quantifiable and nonquantifiable public benefits of the proposed transmission line justify its construction.
- The proposed or alternative route is feasible and reasonable.
- The proposed transmission line does not present an unreasonable threat to public health or safety.
- The applicant has accepted the conditions contained in a conditional grant.

What is the deadline for the Commission to issue its decision in an Act 30 case?

The Commission must grant or deny the application for a certificate not later than 1 year after the application’s filing date.

How can an impacted landowner participate in the Act 30 case process?

Impacted landowners own property over which the proposed transmission line is expected or planned to be built as well as those who would be impacted by the alternate route. There are 3 pathway options for impacted landowners to participate in the Act 30 process:

1. **Public meeting attendance and engagement:** Transmission line owners are required to hold public meetings in impacted communities prior to filing an Act 30 case ([MCL 460.566](#)). Impacted landowners should attempt to resolve concerns with the transmission line owner as soon as they are aware of any issues and should take advantage of opportunities to interact with the transmission line owner at the public meetings.
2. **Case intervention:** Impacted landowners can intervene in the case. Landowners participating in the case have the same rights and responsibilities as other participating parties, including rights and responsibilities related to legal procedure. While an individual may represent him or herself, the Act 30 case process is a legal proceeding and participating parties are encouraged to seek legal representation.
3. **Public comment submission:** Impacted Landowners can provide comments via the [Commission's E-dockets platform](#) (www.mi-psc.my.site.com/s/). Please note, however, that, while public comments allow the commenter to formally express disagreement and may help to apply public pressure on the transmission owner to make adjustments to the route, public comments are not considered evidence and cannot be used as the basis for the Commission's decision.

What must an Act 30 application include?

A transmission line owner must include all of the following in an Act 30 application:

- The planned date for beginning construction.
- A detailed description of the proposed transmission line, including its route and its expected configuration and use.
- A description and evaluation of one or more alternate transmission line routes and a statement of why the proposed route was selected.
- If a zoning ordinance prohibits or regulates the location or development of any portion of a proposed route, a description of the location and the way in which that zoning ordinance prohibits or regulates the location or construction of the proposed route.
- Estimated cost.
- Information regarding why the transmission line is needed.
- Estimated public benefits.

Electric Transmission Line Siting - Public Act 30 of 1995

- Estimated private benefits of the proposed major transmission line to the applicant or any legal entity that is affiliated with the applicant.
- Information addressing potential effects of the proposed transmission line on public health and safety.
- A summary of all comments received at each public meeting and the applicant's response to those comments.
- Information indicating that the proposed transmission line will comply with all state and federal environmental standards, laws, and rules.
- Other information reasonably required by the Commission.

[MCL 460.567](#)

What is out of scope for an Act 30 case decision?

An Act 30 case looks only at issues of siting and does not examine issues of cost recovery, eminent domain, land valuation, or the issuance of any construction or environmental permits.

How can a person submit comments regarding an Act 30 proceeding?

Any member of the public can submit a comment. There are three ways to submit comments:

1. Submit written comments to the Commission by mailing them to: The Michigan Public Service Commission, Attn: Executive Secretary, 7109 W. Saginaw Highway, Lansing, MI 48917.
2. Submit comments via email to Lara-Mpsc-Edockets@Michigan.gov.
3. Use the online comment function on our [E-Dockets system](#) and enter the MPSC case number to get started.

All mailed and emailed comments should reference the case number to which the comment applies.

Are public comments part of the record evidence in the case?

No. While public comments provide insight related to public interest and are visible to the public in the E-dockets file, they are not evidence in the case. Because comments are not evidence, they cannot be used by the Commission in making its final decision.

How can members of the public engage in the process?

Similar to the methods of engagement available to impacted landowners, concerned community members can engage in the siting process in three ways:

1. Public meeting attendance and engagement: Members of the public may engage directly with the transmission line owner during the public meetings hosted by the transmission line owner.

Electric Transmission Line Siting - Public Act 30 of 1995

2. Case intervention: Members of the public can petition to intervene in the case proceeding subject to the requirements of permissive intervention ([see page 2](#)).
3. Public comment submission: Members of the public can file comments on the docket ([see page 6](#)).

What is the role of the MPSC Staff in the Act 30 process?

MPSC Staff serve as independent experts in Commission cases, providing their own expert testimony and position in the cases. MPSC Staff review the application for completeness, and make determinations regarding whether, in Staff's opinion, the transmission line owner has completed the public engagement activities required by statute. Staff will also provide expert witness testimony about the transmission line and recommend conditions to the CPCN. Staff's testimony will focus on the elements that the transmission line owner must prove in order to receive a certificate, including:

- An evaluation of the public benefits of the line.
- The feasibility and reasonableness of the proposed route.
- Whether the proposed line presents an unreasonable threat to public health or safety.

What happens if the Commission issues a CPCN?

A CPCN in an Electric Transmission Line siting case represents a finding by the Commission that the proposed transmission line is in the public interest and grants the transmission line owner the right to build the line, provided that other legal requirements (for instance, environmental permitting) are met.

While a CPCN does not condemn the property upon which the line will be built, the CPCN can be used by the transmission line owner in a condemnation proceeding as binding evidence that the project is in furtherance of the public convenience and necessity. While a condemnation proceeding is pursued in circuit court, the Commission's issuance of a CPCN is binding on the court as to the public necessity determination.

Condemnation proceedings are processed in accordance with the [Uniform Condemnation Procedures Act](#) (UCPA), Act 87 of 1980, MCL 213.51–213.75. In order for a taking of private property to pass constitutional scrutiny, the taking must be for public use (the UCPA requires that taking of the property be in furtherance of the "public necessity") and the owner must be provided just compensation.

Electric Transmission Line Siting - Public Act 30 of 1995

Questions of whether proposed compensation is “just” are governed by the Michigan Constitution and several statutes and any disputes are addressed through proceedings before the circuit court.

Impacted landowners are encouraged to seek legal counsel to ensure that their interests are fully represented and that their legal rights are protected throughout the Act 30 process and any subsequent legal proceedings.

What happens if the Commission denies an Act 30 application?

For applications where a CPCN is required by statute, if the Commission denies an Act 30 application, a CPCN is not granted to the transmission owner. Where a project requires the granting of a CPCN, the transmission owner would need to file a new application and address the issues upon which the Commission based its denial. In the alternative, the transmission owner could abandon the project.

If a CPCN was discretionary, meaning one for which the transmission owner could apply but was not required to, the transmission owner could either file a new application or could work to obtain necessary rights of ways from individual landowners. If a transmission owner were to pursue this method of obtaining rights of ways, the transmission owner would need to negotiate separately with each impacted landowner for the rights of way necessary for the project.

Where can I find additional information regarding the Act 30 process?

Additional information regarding [Act 30 of 1995](#) can be found on the [Michigan Legislature website](#) (www.legislature.mi.gov).