

Amendment - 1st Reading-white - Requested by: Walt Sales - (S) Energy and Telecommunications

- 2023

68th Legislature 2023

Drafter: Trevor Graff, 406-444-4975

SB0353.001.001

1 SENATE BILL NO. 353

2 INTRODUCED BY W. SALES

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING RIGHTS OF FIRST REFUSAL; PROVIDING RIGHT TO
5 CONSTRUCT TRANSMISSION SYSTEMS IN FEDERALLY RECOGNIZED RELIABILITY ORGANIZATIONS;
6 AMENDING ~~SECTION SECTIONS 69-5-201 AND~~ 69-5-202, MCA; AND PROVIDING AN IMMEDIATE
7 EFFECTIVE DATE."

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9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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11 **Section 1.** Section 69-5-201, MCA, is amended to read:

12 **"69-5-201. Definitions.** As used in this part, the following definitions apply:

13 (1) (a) "Electric transmission line" means a line used to convey electrical energy connected to
14 transmission facilities that is energized at 115 kilovolts or more phase to phase.

15 (b) The term does not include an electric transmission line used solely to connect an energy
16 generation facility to transmission facilities owned by an incumbent electric utility.

17 (2) ~~"Federally registered planning authority"~~ "Federal transmission planning entity" means a
18 regional transmission organization responsible for moving electricity, planning for the movement of electricity, or
19 both over large interstate areas registered with the federal energy regulatory commission.

20 (3) "Incumbent electric utility" means an owner or an affiliate of an owner of a merchant electric
21 transmission system with an open access transmission tariff approved by the federal energy regulatory
22 commission pursuant to section 205 of the Federal Power Act, a public utility, or an affiliate of a public utility
23 regulated by the public service commission pursuant to Title 69, chapter 3, or a utility qualifying as an electric
24 cooperative pursuant to Title 35, chapter 18, or their successors or assignees, that owned, controlled, or
25 operated transmission facilities on or before January 1, 2017.

26 (4) "Transmission facilities" means facilities that are used to provide transmission services and are
27 owned, controlled, or operated by an incumbent electric utility."

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Section 2. Section 69-5-202, MCA, is amended to read:

"69-5-202. Right of first refusal. (1) (a) Except as provided in subsection (1)(b), an incumbent electric utility has the right to construct, own, and maintain an electric transmission line on or after January 1, 2017:

(i) located in an area included in ~~the midwest reliability organization~~ a federally recognized reliability organization;

(ii) approved for construction by a ~~federally registered planning authority~~ federal transmission planning entity; and

(iii) planned to interconnect with an incumbent electric utility's transmission facilities. This subsection (1)(a)(iii) does not apply to:

(A) an upgrade or a capacity increase to an existing line owned by an incumbent electric utility; or

(B) an interconnection to an existing line owned by the incumbent utility.

(b) An incumbent electric utility may waive its right to construct, own, and maintain an electric transmission line by providing notice to the ~~federally registered planning authority~~ federal transmission planning entity.

(2) If an incumbent electric utility intends to construct, own, and maintain an electric transmission line in accordance with subsection (1)(a), the incumbent electric utility shall provide notice to the ~~federally registered planning authority~~ federal transmission planning entity of its intent within 120 days after the ~~federally registered planning authority's~~ federal transmission planning entity's approval of the project.

(3) If an electric transmission line constructed, owned, and maintained in accordance with subsection (1)(a) is connected between two separate incumbent electric utilities, the electric transmission line must be shared equally between the incumbent utilities, unless the incumbent utilities agree to different terms and conditions.

(4) Nothing in this section may be construed to limit, alter, or modify the authority of the commission to make findings relative to 69-3-109 and 69-3-201 as they relate to transmission facilities or to regulate utilities subject to Title 69, chapter 3."