

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2101

By Committee on Energy and Environment

1-24

1 AN ACT concerning utilities; relating to electric transmission, interstate
2 siting compact.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. ARTICLE I: PURPOSE

6 (a) Siting electric transmission lines across state borders and federal
7 lands is an issue for states, the federal government, transmission utilities,
8 consumers, environmentalists and other stakeholders. The current, multi-
9 year application review process by separate and equal jurisdictions
10 constitutes a sometimes inefficient and redundant process for transmission
11 companies and complicates the efforts of state and federal policymakers
12 and other stakeholders to develop more robust economic opportunities,
13 increase grid reliability and security, and ensure the consumers have the
14 lowest cost electricity possible.

15 (b) In an effort to create more energy independence, develop more
16 renewable and cleaner electricity generation resources and capture
17 economic opportunities in developing smart energy technologies, member
18 states recognize a critical need to be able to site interstate electricity
19 transmission lines to make the electric grid more robust, reliable, efficient,
20 and to promote economic competitiveness.

21 (c) This compact recognizes that states have a vested interest in
22 retaining their sovereignty and that EPACT 2005 authorizes interstate
23 compacts that can forestall federal preemptive acts if states cooperatively
24 develop a transmission siting process.

25 (d) The goal of this compact is to balance competing interests of the
26 stakeholders and to provide a mechanism with which to resolve
27 differences, bring interested parties together, and move projects forward.
28 The compact creates a national structure under which states may cooperate
29 on a regional basis, to facilitate siting of interstate power lines.

30 (e) Based on these considerations, this interstate compact is intended
31 to:

- 32 (1) Simplify and standardize the application and filing process;
33 (2) create a transparent and streamlined process for review and
34 decision making;
35 (3) allow states to consider regional benefits;
36 (4) minimize impediments and delays to the siting of interstate

1 transmission lines;

2 (5) promote regional collaborative decision-making on line siting
3 while providing the opportunity for public review and comments regarding
4 the application;

5 (6) avail the member states of the provisions in EPACT 2005 while
6 preserving state sovereignty with respect to interstate transmission line
7 siting; and

8 (7) create a forum for federal agencies and tribes to become part of
9 the siting review process simultaneously with states.

10 Sec. 2. ARTICLE II: DEFINITIONS

11 (a) "Bylaws" means those bylaws established by the interstate
12 commission pursuant to article IX of this compact for its governance or for
13 directing or controlling its actions and conduct.

14 (b) "Contiguous state" means the next adjacent state, recognizing
15 shared bodies of water and referring only to member states.

16 (c) "Combined multistate siting authority" (CMSSA) means the
17 members of the state project review panel (SPRP) of each involved state.

18 (d) "Commissioner" means the voting representative appointed by
19 each member state pursuant to article IX of this compact.

20 (e) "Convening state" means the member state in which an
21 application is filed.

22 (f) "Federal agency" means any agency of the United States
23 government authorized by congress that administers lands within a
24 proposed transmission line route in a member state.

25 (g) "Interstate commission" or "commission" means the interstate
26 commission created pursuant to article IX of this compact.

27 (h) "Involved state" means a member state through which a proposed
28 transmission line will pass.

29 (i) "Member state" means any state that has adopted a transmission
30 line siting compact and has enacted the enabling compact legislation.

31 (j) "Record" means all materials and testimonies submitted to the
32 CMSSA during formal proceedings.

33 (k) "Rule" means a written statement by the interstate commission
34 promulgated pursuant to article XII of this compact that is of general
35 applicability, implements, interprets or prescribes a policy or provision of
36 the compact or an organizational, procedural or practice requirement of the
37 commission and has the force and effect of statutory law in a member
38 state, and includes the amendment, repeal or suspension of an existing
39 rule.

40 (l) "State project review panel" (SPRP) means from each member
41 state, three representatives: one appointed respectively by the governor, the
42 legislature and the state agency with siting authority or as otherwise
43 prescribed by the adopting state.

1 (m) "State" means any state, commonwealth, district or territory of
2 the United States.

3 (n) "Tribe" means any native American or Alaskan native tribe or
4 organization federally recognized by the United States department of
5 interior and the bureau of Indian affairs.

6 Sec. 3. ARTICLE III: OVERVIEW OF THE APPLICATION AND
7 REVIEW PROCESS

8 (a) This compact creates a method for states to site multistate electric
9 transmission lines with three levels of organization consisting of:

10 (1) A state project review panel within each member state, consisting of
11 three or more members, to coordinate the views of different agencies and
12 interests within the state;

13 (2) A combined multistate siting authority, consisting of the states
14 affected by a particular project proposal, authorized to make siting
15 decisions for that project; and

16 (3) An interstate compact commission, which provides administrative
17 support and rulemaking capability.

18 (b) The CMSSA is hereby given the authority under the compact, as
19 authorized by congress, to cooperatively site electric transmission lines
20 within the affected states.

21 (c) A project sponsor may choose to use the procedures of this
22 compact or to apply to each affected state under the state procedures
23 otherwise applicable. In member states, federal backstop permitting under
24 section 215 of the federal power act may not be requested.

25 (d) A request for siting authority under this compact is initiated by
26 filing an application in any one of the states in which the project would be
27 sited. That state will convene a CMSSA, composed of each interested
28 state's SPRP. The CMSSA will make an early determination to accept or
29 reject the application. It will set a procedural schedule for a hearing on the
30 merits of the project.

31 (1) During the review process, the CMSSA will hold two public
32 hearings: the first hearing will evaluate whether the application is
33 complete, and the second hearing will assess the merits of the application,
34 including, but not limited to, the economic justification and environmental
35 impacts of the proposed line.

36 (2) Public notification of the application and the proposed line shall
37 be provided to each involved state by the convening state.

38 (3) For the purposes of this compact, judicial appeal shall be based on
39 the appellate process established in 16 U.S.C. 8251 § 313, as in effect on
40 the effective date of this act.

41 (4) Once a route is certified by the combined state application review
42 board, eminent domain shall be based on each state's existing authority.

43 (5) The application shall include:

1 (A) In states that have not declared a critical need for energy
2 infrastructure the showing of need shall be established by the following:

3 (i) Determined by each state statute;
4 (ii) other procedures as shall be acceptable to the committee; and
5 (iii) including regional and national energy and environmental
6 requirements, while taking into consideration the rules and statutes of each
7 involved member state;

8 (B) all relevant information regarding cost recovery of project costs,
9 or other appropriate organizations; project costs recovery will be
10 addressed under FERC, individual state regulatory commissions, private
11 contracts, or other mechanisms as specified by the applicant;

12 (C) how the application is consistent with any FERC-sanctioned
13 regional transmission plans;

14 (D) environmental studies normally required by the federal highway
15 administration;

16 (E) the proposed route plan, including an alternatives analysis;

17 (F) corporate identity of the primary applicant and any additional
18 partners based on existing FERC requirements; and

19 (G) such other information as to meet the substantial interests of the
20 involved state requirements for intrastate transmission lines based upon
21 pre-application conferences with stakeholders and involved states.

22 Sec. 4. ARTICLE IV: APPLICATION FILING PROCESS

23 The application process begins with the filing of an application and is
24 subject to the following conditions:

25 (a) Siting a line across multiple states requires only one application
26 and that application will be filed electronically, to the extent possible, in
27 one state with a state siting authority.

28 (b) The applicant may file in any eligible member state, which shall
29 also serve as the convening state and shall ensure that copies of the filing
30 are forwarded to the other involved member states. Once the application is
31 filed, that state will convene involved member states to form a CMSSA in
32 the state of filing as defined in subsection (c) of article II.

33 (c) An amount equal to the total expenses incurred for the cost of
34 reviewing the last application in the convening state. This shall be based
35 on reasonable filing fees and is intended to cover only the application's
36 costs, not the cost of the project itself.

37 (d) The applicant will be responsible for all reasonable costs
38 associated with the review of the application by the involved member
39 states, thus ensuring that costs are covered independent of state funds.

40 (e) Each member state shall form a state project review panel. While
41 each member state may individually determine which agencies should be
42 part of the SPRP, the panel shall include the following three
43 representatives: one appointed respectively by the governor, the

1 legislature, and the state agency with siting authority or as otherwise
2 prescribed by the adopting state, one of whom shall be designated as chair.

3 (f) Affected federal agencies and tribes shall be notified and the
4 CMSSA shall include one advisory representative for federal agencies, if
5 federal land is involved, and one representative for all federally recognized
6 tribes, if tribal land is involved, who shall serve in an ex officio capacity.

7 Sec. 5. ARTICLE V: REVIEW OF SUFFICIENCY OF
8 APPLICATION

9 The initial application review process shall be completed within 60
10 days of filing. During that period, the convening state will assemble the
11 CMSSA comprised of the SPRP members of each involved member state
12 to meet and review the application. Meetings may be held face to face or
13 convened by electronic means as determined by the CMSSA. The panel
14 will review the application for completeness and accept or reject the
15 application before proceeding with the formal hearing and approval
16 process. If the application is rejected for incompleteness, the information
17 deemed to be missing or inadequate shall be clearly specified by the panel.
18 The CMSSA triggered hereunder shall establish the procedural policies for
19 implementation including public notice of filings and hearings.

20 Sec. 6. ARTICLE VI: PROPOSAL REVIEW AND TIMELINE

21 (a) The first CMSSA hearing shall occur within 90 days of the initial
22 filing and is intended to assess the completeness of the application. A
23 second CMSSA meeting will occur no more than 30 days after the initial
24 decision. The second meeting will assess the merits of the application,
25 including, but not limited to, the proposed route, regional and national
26 energy needs, and costs.

27 (b) The CMSSA at their initial meeting shall establish procedures by
28 which interveners may participate in developing the formal record for the
29 application review.

30 (c) The CMSSA shall hold at least one public comment hearing in
31 each of the involved member states. These public comment hearings must
32 be completed within 120 days after the initial application filing.

33 (d) At CMSSA and SPRP meetings all transcripts and other exhibits
34 will be recorded, and all meetings will be open to the public unless a
35 majority of CMSSA or SPRP members vote to close the meeting under the
36 laws of the convening or member state in which the meeting is being held.
37 These documents will be included in the official record.

38 Sec. 7. ARTICLE VII: APPROVAL PROCESS

39 The CMSSA shall conduct an evidentiary hearing. The CMSSA will
40 issue conditional or final approval based on the record within 270 days of
41 the filing of the application unless the applicant and the CMSSA agree to a
42 different timeline. The CMSSA shall outline the required actions in
43 instances where conditional approval is granted. All decisions of the

1 CMSSA will be based on majority vote, with each involved state having
2 one vote as determined by a majority vote of each state project review
3 panel. A state, based upon the rules of the involved states, may alter the
4 route for the transmission line within its boundaries by assuming
5 incremental costs.

6 Sec. 8. ARTICLE VIII: ADMINISTRATIVE AND JUDICIAL
7 REVIEW

8 (a) Any person aggrieved by any action taken by the CMSSA,
9 pursuant to the provisions of the compact or authorized rules promulgated
10 hereunder, shall be entitled to a hearing before the interstate commission
11 according to the procedures provided in the compact bylaws and rules.
12 After exhaustion of such administrative remedies, any aggrieved person
13 shall have the right to judicial review of a final action by the commission
14 before a three-judge panel of the United States district courts for the
15 district of Columbia or the district court in which the interstate
16 commission on electric transmission line siting (ICCC) created hereunder
17 maintains offices, provided such action is commenced within 90 days.

18 (b) The commission may initiate actions to compel compliance with
19 the provisions of this compact, and the bylaws and rules promulgated
20 hereunder. Jurisdiction over such actions is granted to the United States
21 district courts for the district of Columbia and the district court in which
22 the commission maintains offices. The remedies available to any such
23 court shall include, but not be limited to, equitable relief and civil
24 penalties.

25 (c) Each involved state may issue orders within its respective
26 jurisdiction and may initiate actions to compel compliance with the
27 provisions of its respective statutes and regulations adopted to implement
28 the authorities contemplated by this compact in accordance with the
29 provisions of the laws adopted in each party's jurisdiction.

30 (d) Any aggrieved person, involved state or the commission may
31 commence a civil action in the relevant courts and administrative systems
32 to compel any person or involved state to comply with this compact should
33 any such person, or involved state, without approval having been given,
34 undertake a siting of multistate electric transmission lines which is
35 prohibited by or subject to approval pursuant to this compact.

36 (e) No action under this subsection may be commenced if:

37 (1) CMSSA approval for the multistate electric transmission siting
38 has been granted; or

39 (2) the CMSSA has found that the proposed siting is not subject to
40 approval pursuant to this compact.

41 (f) No action under this subsection may be commenced unless:

42 (1) A person commencing such action has first given 60 days prior
43 notice to the commission, person or involved state alleged to be in

1 noncompliance; and

2 (2) neither the commission, person or involved state has commenced
3 and is diligently prosecuting appropriate enforcement actions to compel
4 compliance with this compact.

5 (g) The available remedies shall include equitable relief, and the
6 prevailing or substantially prevailing party may recover the costs of
7 litigation, including reasonable attorney and expert witness fees, whenever
8 the court determines that such an award is appropriate.

9 (h) Each of the involved states may adopt provisions providing
10 additional enforcement mechanisms and remedies including equitable
11 relief and civil penalties applicable within its jurisdiction to assist in the
12 implementation of this compact.

13 Sec. 9. ARTICLE IX: THE INTERSTATE COORDINATING
14 COMPACT COMMISSION

15 (a) The member states hereby create the "interstate commission on
16 electric transmission line siting" for the purpose of the administration of
17 the interstate compact, which is a discretionary state function. The
18 interstate commission shall:

19 (1) Be a body corporate and joint agency of the member states and
20 shall have all the responsibilities, powers and duties set forth herein, and
21 such additional powers as may be conferred upon it by a subsequent
22 concurrent action of the respective legislatures of the member states in
23 accordance with the terms of this compact.

24 (2) Consist of one interstate commission voting representative from
25 each member state who shall be that state's compact commissioner. Each
26 member state shall appoint a compact commissioner and alternates by
27 gubernatorial appointment or as otherwise determined by law. Each
28 member state represented at a meeting of the interstate commission is
29 entitled to one vote. A majority of the total member states shall constitute a
30 quorum for the transaction of business, unless a larger quorum is required
31 by the bylaws of the interstate commission. The bylaws may provide for
32 meetings of the interstate commission to be conducted by
33 telecommunication or electronic communication. The commission may
34 include ex officio, non-voting representatives who are members of
35 interested organizations, including, but not be limited to, tribes, regional
36 transmission organizations and federal agencies.

37 (3) Meet at least once each calendar year via telecommunications or
38 in-person meetings. The chairperson may call additional meetings and,
39 upon the request of a simple majority of the member states, shall call
40 additional meetings.

41 (4) Establish bylaws and rules that provide for conditions and
42 procedures under which the interstate commission, the CMSSA, and the
43 SRPR shall make information and official records available to the public

1 for inspection or copying as required by the federal freedom of
2 information act and the government in the sunshine act.

3 (b) For a meeting, or portion of a meeting, closed pursuant to this
4 section, the interstate commission shall certify that the meeting may be
5 closed upon a vote of at least $\frac{2}{3}$ majority and shall reference each relevant
6 provision for which an exemption is taken. The commission shall keep
7 minutes which shall fully and clearly describe all matters discussed in a
8 meeting and shall provide a full and accurate summary of actions taken,
9 and the reasons therefore, including a description of the views expressed
10 and the record of a roll call vote. All documents considered in connection
11 with an action shall be identified in such minutes. All minutes and
12 documents of a closed meeting shall remain under seal, subject to release
13 by a majority vote of the commission.

14 (c) After eight states join the compact, an executive committee may
15 be established, whose members shall include the officers of the interstate
16 commission and such other members of the commission as determined by
17 the bylaws. Members of the executive committee shall serve a one-year
18 term. Members of the executive committee shall be entitled to one vote
19 each. The executive committee shall have the power to act on behalf of the
20 commission, with the exception of rulemaking, during periods when the
21 commission is not in session. The executive committee shall oversee the
22 day-to-day activities of the administration of the compact including
23 enforcement and compliance with the provisions of the compact, its
24 bylaws and rules and other such duties as deemed necessary.

25 Sec. 10. ARTICLE X: POWERS AND DUTIES OF THE
26 INTERSTATE COMMISSION

27 The interstate commission shall have the following powers:

28 (a) To provide for dispute resolution among member states.

29 (b) To promulgate rules, which shall be binding to the extent and in
30 the manner provided for in this compact.

31 (c) To issue, upon request of a member state, advisory opinions
32 concerning the meaning or interpretation of the interstate compact, its
33 bylaws, rules and actions.

34 (d) To enforce compliance with the compact provisions, the rules
35 promulgated by the commission, and the bylaws, using all necessary and
36 proper means, including, but not limited to, the use of judicial process.

37 (e) To purchase and maintain insurance and bonds.

38 (f) To borrow, accept, hire or contract for services of personnel.

39 (g) To establish and appoint committees including, but not limited to,
40 an executive committee as required by subsection (c) of article IX, which
41 shall have the power to act on behalf of the commission in carrying out its
42 powers and duties hereunder.

43 (h) To elect or appoint such officers and appoint attorneys,

1 employees, agents, or consultants, and to fix their compensation, define
2 their duties and determine their qualifications; and to establish the
3 commission's personnel policies and programs relating to conflicts of
4 interest, rates of compensation, and qualifications of personnel.

5 (i) To accept any and all donations and grants of money, equipment,
6 supplies, materials and services and to receive, utilize and dispose of it.

7 (j) To lease, purchase, accept contributions or donations of, or
8 otherwise to own, hold, improve or use any property, real, personal or
9 mixed.

10 (k) To sell, convey, mortgage, pledge, lease, exchange, abandon, or
11 otherwise dispose of any property, real, personal or mixed.

12 (l) To establish a budget and make expenditures.

13 (m) To adopt a seal and bylaws governing the management and
14 operation of the commission.

15 (n) To report annually to the legislatures and governors of the
16 member states concerning the activities of the commission during the
17 preceding year. Such reports shall also include any recommendations that
18 may have been adopted by the commission.

19 (o) To coordinate education, training and public awareness regarding
20 the compact, its implementation and operation for officials involved in
21 such activity.

22 (p) To maintain corporate books and records in accordance with the
23 bylaws.

24 (q) To perform such functions as may be necessary or appropriate to
25 achieve the purposes of this compact.

26 Sec. 11. ARTICLE XI: ORGANIZATION AND OPERATION OF
27 THE INTERSTATE COMMISSION

28 (a) The interstate commission shall, by a majority of the members
29 present and voting, within 12 months after the first commission meeting,
30 adopt bylaws to govern its conduct as may be necessary or appropriate to
31 carry out the purposes of the compact.

32 (b) The commission shall, by a majority of the members, elect or
33 appoint annually from among its members a chairperson, a vice-
34 chairperson, and a treasurer, each of whom shall have such authority and
35 duties as may be specified in the bylaws. The chairperson or, in the
36 chairperson's absence or disability, the vice-chairperson, shall preside at all
37 meetings of the commission. The officers so elected shall serve without
38 compensation or remuneration from the commission; provided that,
39 subject to the availability of budgeted funds, the officers shall be
40 reimbursed for ordinary and necessary costs and expenses incurred by
41 them in the performance of their responsibilities as officers of the
42 commission.

43 (c) The commission's officers and its employees shall be immune

1 from suit and liability, either personally or in their official capacity, for a
2 claim for damage to or loss of property or personal injury or other civil
3 liability caused or arising out of or relating to an actual or alleged act, error
4 or omission that occurred or that such person had a reasonable basis for
5 believing occurred, within the scope of commission employment, duties or
6 responsibilities; provided, that such person shall not be protected from suit
7 or liability for damage, loss, injury or liability caused by the intentional or
8 willful and wanton misconduct of such person.

9 (1) The liability of the commission's executive director and
10 employees or commission representatives, acting within the scope of such
11 person's employment or duties for acts, errors or omissions occurring
12 within such person's state may not exceed the limits of liability set forth
13 under the constitution and laws of that state for state officials, employees
14 and agents. The commission is considered to be an instrumentality of the
15 states for the purposes of any such action. Nothing in this subsection shall
16 be construed to protect such person from suit or liability for damage, loss,
17 injury or liability caused by the intentional or willful and wanton
18 misconduct of such person.

19 (2) The commission shall indemnify the officers and its employees
20 and, subject to the approval of the attorney general or other appropriate
21 legal counsel of the member state represented by a commission
22 representative, shall defend such commission representative in any civil
23 action seeking to impose liability arising out of an actual or alleged act,
24 error or omission that occurred within the scope of commission
25 employment, duties or responsibilities or that the defendant had a
26 reasonable basis for believing occurred within the scope of commission
27 employment, duties or responsibilities, provided that the actual or alleged
28 act, error or omission did not result from intentional or willful and wanton
29 misconduct on the part of such person.

30 (3) To the extent not covered by the state involved, member state or
31 the commission, the representatives or employees of the commission shall
32 be held harmless in the amount of a settlement or judgment, including
33 attorney's fees and costs, obtained against such persons arising out of an
34 actual or alleged act, error or omission that occurred within the scope of
35 commission employment, duties or responsibilities or that such persons
36 had a reasonable basis for believing occurred within the scope of
37 commission employment, duties or responsibilities, provided that the
38 actual or alleged act, error or omission did not result from intentional or
39 willful and wanton misconduct on the part of such persons.

40 Sec. 12. ARTICLE XII: RULEMAKING FUNCTIONS OF THE
41 INTERSTATE COMMISSION

42 (a) The interstate commission shall promulgate reasonable rules
43 pertaining to the administration of the interstate compact commission on

1 electric transmission line siting, in order to effectively and efficiently
2 achieve the purposes of this compact. Notwithstanding the foregoing, in
3 the event the interstate commission exercises its rulemaking authority in a
4 manner that is beyond the scope of the purposes of this act, or the powers
5 granted hereunder, then such an action by the commission shall be invalid
6 and have no force or effect. Rules shall be made pursuant to a rulemaking
7 process that substantially conforms to the federal administrative procedure
8 act, as in effect on the effective date of this act, as may be appropriate to
9 the operations of the commission.

10 (b) Not later than 30 days after a rule is promulgated, any person may
11 file a petition for judicial review in the United States district court where
12 the commission has its offices or the district of Columbia. However, the
13 filing of such a petition shall not stay or otherwise prevent the rule from
14 becoming effective unless the court finds that the petitioner has a
15 substantial likelihood of success. The court shall give deference to the
16 actions of the commission consistent with applicable law and shall not find
17 the rule to be unlawful if the rule represents a reasonable exercise of the
18 commission's authority.

19 Sec. 13. ARTICLE XIII: OVERSIGHT, ENFORCEMENT, AND
20 DISPUTE RESOLUTION

21 (a) The executive, legislative and judicial branches of state
22 government in each member state shall enforce this compact and shall take
23 all actions necessary and appropriate to effectuate the compact's purposes
24 and intent including enforcement of any orders of the regional panels
25 hereunder. The provisions of this compact and the rules promulgated
26 hereunder shall have the force and effect of law.

27 (1) All courts shall take judicial notice of the compact and the rules in
28 any judicial or administrative proceeding in a member state pertaining to
29 the subject matter of this compact which may affect the powers,
30 responsibilities or actions of the interstate commission or panels.

31 (2) The commission or panels shall be entitled to receive all service
32 of process in any such proceeding, and shall have standing to intervene in
33 the proceeding for all purposes. Failure to provide service of process to the
34 commission shall render a judgment or order void as to the commission,
35 this compact or promulgated rules.

36 (b) If the interstate commission determines that a member state has
37 defaulted in the performance of its obligations or responsibilities under
38 this compact, or the bylaws or promulgated rules: (1) The commission
39 shall:

40 (A) Provide written notice to the defaulting state and other member
41 states, of the nature of the default, the means of curing the default and any
42 action taken by the commission. The commission shall specify the
43 conditions by which the defaulting state must cure its default; and

1 (B) provide remedial training and specific technical assistance
2 regarding the default.

3 (2) The commission may, by a majority vote of the members, assess
4 fines, fees and costs in such amounts as are deemed to be reasonable as
5 fixed by the commission.

6 (3) The procedural schedule will continue even without the defaulting
7 state's participation.

8 (4) The state which has been suspended or terminated is responsible
9 for all assessments, obligations and liabilities incurred through the
10 effective date of suspension or termination, including obligations, the
11 performance of which extends beyond the effective date of suspension or
12 termination.

13 (5) The commission shall not bear any costs relating to any state that
14 has been found to be in default or which has been suspended or terminated
15 from the compact, unless otherwise mutually agreed upon in writing
16 between the commission and the defaulting state.

17 (6) The defaulting state may appeal the action of the commission by
18 petitioning the United States district court for the district of Columbia or
19 the federal district where the interstate commission has its principal
20 offices. The prevailing party shall be awarded all costs of such litigation
21 including reasonable attorney's fees.

22 (7) If a state defaults as a result of a filing by a transmission operator
23 or the decision by the CMSSA, the CMSSA shall intervene as a friend of
24 the court on behalf of a transmission applicant who follows the electric
25 transmission siting compact rules.

26 (c) The interstate commission shall attempt, upon the request of a
27 member state or a panel, to resolve disputes which are subject to the
28 compact and which may arise among member states, between member and
29 non-member states and between member states and transmission
30 applicants. The commission shall promulgate a rule providing for both
31 mediation and binding dispute resolution for disputes as appropriate.

32 (d) The interstate commission, in the reasonable exercise of its
33 discretion, shall enforce the provisions and rules of this compact. Upon the
34 request of a member state and a majority vote of the members, the
35 commission may initiate legal action in the United States district court for
36 the district of Columbia or, at the discretion of the commission, in the
37 federal district where the commission has its principal offices, to enforce
38 compliance with the provisions of the compact or the commission's
39 promulgated rules and bylaws against a member state in default. The relief
40 sought may include both injunctive relief and damages. In the event
41 judicial enforcement is necessary, the prevailing party shall be awarded all
42 costs of such litigation, including reasonable attorney's fees. The remedies
43 herein shall not be the exclusive remedies of the commission and the

1 commission may avail itself of any other remedies available under state or
2 federal law.

3 Sec. 14. ARTICLE XIV: FINANCE AND ADMINISTRATION

4 (a) The commission established hereunder shall delegate day-to-day
5 management and administration of its duties, as needed, to any employees,
6 contractors or donated staff who shall all be considered governmental
7 employees.

8 (b) The commission shall pay or provide for the payment of
9 reasonable expenses of its establishment and organization. To fund the
10 cost of initial operations, the commission may accept contributions and
11 other forms of funding from federal agencies, compacting states and other
12 sources. Contributions and other forms of funding from other sources
13 shall be of such a nature that the independence of the commission shall not
14 be compromised.

15 (c) The commission shall collect a filing fee equal to ~~1.5%~~**0.5%** of
16 the filing fee paid the CMSSA for each proposed line from the applicant to
17 cover the cost of operations and activities of the commission and its staff
18 in a total amount sufficient to cover the commission's annual budget.

19 (d) The commission shall adopt an annual budget sufficient to
20 provide for the payment of the reasonable expenses of its establishment,
21 organization and ongoing activities which shall be fully funded by the
22 member states that shall bear ultimate responsibility. Nothing in this
23 provision shall prevent the commission from paying obligations incurred
24 and outstanding from a prior year.

25 (e) The commission may not pledge the credit of any member state,
26 except by and with the appropriate legal authority of that state, and as a
27 governmental entity, shall be exempt from all taxation in and by the
28 member states. No member state shall have any claim to or ownership of
29 any property held by or vested in the commission or to any commission
30 funds held pursuant to the provisions of this compact except for state
31 licensing fees collected from licensees as its agent and held for periodic
32 transmission to it by the commission.

33 Sec. 15. ARTICLE XV: MEMBER STATES, EFFECTIVE DATE
34 AND AMENDMENT

35 (a) Any state is eligible to become a member state. The compact shall
36 become effective and binding upon legislative enactment of the compact
37 into law by no less than three of the states. Thereafter, it shall become
38 effective and binding as to any other member state upon enactment of the
39 compact into law by that state. The governors of non-member states or
40 their designees shall be invited to participate in the activities of the
41 interstate commission on a non-voting basis prior to adoption of the
42 compact by all states.

43 (b) The commission may propose amendments to the compact for

1 enactment by the member states. No amendment shall become effective
2 and binding upon the commission and the member states unless and until it
3 is enacted into law by unanimous consent of the member states.

4 Sec. 16. ARTICLE XVI: WITHDRAWAL AND DISSOLUTION

5 (a) Once effective, the compact shall continue in force and remain
6 binding upon each and every member state. Withdrawal from this compact
7 shall be by the passage of legislation repealing the enacting statutes of this
8 compact, but shall not take effect until the final determination of a pending
9 application involving that state or one year after the effective date of such
10 repeal, whichever is longer in time, and until written notice of the
11 withdrawal has been given by the withdrawing state to the governor of
12 each other member state. The withdrawing state shall immediately notify
13 the chairperson of the interstate commission in writing upon the
14 introduction of legislation repealing this compact in the withdrawing state.
15 The commission shall notify the other member states of the withdrawing
16 state's intent to withdraw within 60 days of its receipt thereof. The
17 withdrawing state shall be responsible for all assessments, obligations and
18 liabilities incurred through the effective date of withdrawal, including
19 obligations for which performance extends beyond the effective date of
20 withdrawal. Reinstatement following withdrawal of a member state shall
21 occur upon the withdrawing state reenacting the compact or upon such
22 later date as determined by the commission.

23 (b) This compact shall dissolve upon the date of the withdrawal or
24 default of the member state which reduces the membership in the compact
25 to one member state. Upon the dissolution of this compact, the compact
26 becomes null and void and shall be of no further force or effect, and the
27 business and affairs of the interstate commission shall be concluded with
28 any surplus funds to be distributed in accordance with the bylaws.

29 Sec. 17. ARTICLE XVII: BINDING EFFECT OF COMPACT AND
30 OTHER LAWS

31 Nothing herein prevents the enforcement of any other law of a member
32 state that is not inconsistent with this compact. All member states' laws
33 conflicting with this compact are superseded to the extent of the conflict.
34 All lawful actions of the interstate commission, including all rules and
35 bylaws promulgated by the commission, are binding upon the member
36 states. All agreements between the commission and the member states are
37 binding in accordance with their terms. In the event any provision of this
38 compact exceeds the constitutional limits imposed on the legislature of any
39 member state, such provision shall be ineffective to the extent of the
40 conflict with the constitutional provision in question in that member state.

41 Sec. 18. ARTICLE XVIII: SEVERABILITY AND
42 CONSTRUCTION

43 The provisions of this compact shall be liberally construed to effectuate

1 its purposes. Nothing in this compact shall be construed to prohibit the
2 applicability of other interstate compacts to which the states are members.
3 The provisions of this compact shall be severable, and if any phrase,
4 clause, sentence or provision is deemed unenforceable, the remaining
5 provisions of the compact shall be enforceable.

6 Sec. 19. This act shall take effect and be in force from and after its
7 publication in the statute book.