

RESEARCH BRIEFING

The 2026 Senate Permitting Bill

Meeting data center power demand: who pays, where projects go, and what states and communities can decide

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BILL

Bipartisan American Affordability and Jobs Act of 2026 (BAAJA), S. 5653

SPONSORS

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Summary

Data center demand is the central grid question. The North American Electric Reliability Corporation (NERC) identifies data centers as the largest driver of projected demand growth [40]. The proposal would speed federal approvals and protect issued permits for many kinds of projects. It adds no overall construction limit or emissions cap. Landowners and people challenging federal decisions would have fewer ways to object. Covered data centers would pay added costs based on utility estimates approved by regulators; previously approved arrangements would remain in effect. Sponsors seek a vote after the November 3 election; no vote date is confirmed [19,20].

WHY WE FOCUS ON MICHIGAN

This is a national bill, and most of it applies in every state, including Texas. The exception is the new federal siting and planning sections, which expressly exclude Texas's main grid (ERCOT). We focus on Michigan because that's where we work. We use two local projects as examples: ITC's Oneida–Sabine Lake line and the proposed data center near Mason. Anything that only applies in Michigan is marked **In Michigan**. For other states, see "It's not just Michigan."

The Bipartisan American Affordability and Jobs Act of 2026, often shortened to BAAJA, was introduced September 30 as S. 5653 and referred to the Senate Energy and Natural Resources Committee. It is a proposal, not current law. It runs 417 pages in two divisions, one from each committee: Environment and Public Works (EPW) and Energy and Natural Resources (ENR) [1]. Here is what it would do:

- 1. Land.** The Federal Energy Regulatory Commission (FERC) could permit qualifying lines of at least 230 kilovolts (kV) that carry power in interstate commerce, without a prior Department of Energy (DOE) corridor designation. A line does not have to cross a state border to qualify. Lines of at least 345 kV could enter federal and state review together. A federal permit could allow eminent domain: acquiring land rights without the owner's agreement, with compensation. The court process would follow federal procedures. Which Michigan protections survive is an open legal question.
- 2. Who pays.** New data centers drawing at least 20 megawatts (MW), a measure of power demand, that connect after the bill becomes law would pay the extra costs they cause. Utilities estimate those costs; federal or state regulators approve them. The section adds no public disclosure or contested hearing requirement. States could require stronger protections, but previously approved arrangements would stay in effect (Sec. 2107).
- 3. Fuel.** Faster approval does not guarantee cleaner power. Qualifying generators on the customer's side of the meter, including gas and diesel, could gain wholesale market access. States could require a data center to obtain new generation; the provision does not specify a fuel (Secs. 2107–2108).
- 4. Courts.** The bill would allow 150 days to challenge specified decisions under the National Environmental Policy Act (NEPA), historic preservation law, certain Clean Water Act permits, and Endangered Species Act (ESA) biological opinions. For several claims, challengers must have raised the issue in a detailed comment. A NEPA win would send the decision back for correction, called a remand, without canceling the permit or stopping work for that violation. Remedies vary by law.
- 5. Lock-in.** Once issued, a federal permit is hard for any later administration to revisit, for a pipeline or gas plant as much as a wind farm (Title IV).

State approvals do not disappear. Which federal provisions apply depends on the project's permits, federal review requirements, transmission role, and cost arrangements. The federal backstop is a route to federal approval only when specified state-approval conditions are met, so state and local authority must be assessed for each project and provision [1].

In Michigan, that means projects can still require decisions from the Michigan Public Service Commission (MPSC) under state utility and siting laws, permits from the Department of Environment, Great Lakes, and Energy (EGLE), and state-court condemnation proceedings. Other states have their own commissions, siting statutes, and condemnation rules; the same questions apply there.

Data centers need more power. Who pays, and where does it come from?

Data centers are the largest driver of projected electricity demand growth. The North American Electric Reliability Corporation (NERC) says new data centers account for most of the increase in North American electricity demand expected over the next ten years [40] (p. 27). This is a forecast, not a count of demand already connected. The Midcontinent Independent System Operator (MISO) coordinates power across parts of 15 states and Manitoba, Canada, including most of Michigan [49]. Its regional forecast identifies data centers as the primary driver of load growth [41] (slide 18). MISO is an interested party; its forecast is evidence of its planning assumptions, not proof every proposed campus will be built.

Load means electricity demand. Serving a large new load requires enough power supply, a connection to the grid, and equipment able to carry that power. A new transmission line moves electricity; it does not by itself generate it. Demand growth therefore connects the bill's siting, cost, and permitting provisions.

PRESSURE FROM NEW DEMAND	WHAT THE BILL WOULD CHANGE	QUESTION FOR AFFECTED RESIDENTS
More power must reach new customers	Expanded federal transmission siting and regional planning (Secs. 2101–2106)	Who chooses the route, and can owners change it?
Connections can require expensive upgrades	Added-cost payments and financial security for covered data centers (Sec. 2107)	Can the public test the utility's estimate?
Builders seek faster approvals	Shorter filing deadlines and narrower court remedies	Can a court stop work after a violation?
More demand needs dependable supply	Market access for qualifying on-site resources; states may require new generation (Secs. 2107–2108)	Which fuel supplies the demand, and under what conditions?

Meeting the new demand also depends on adding supply in time. NERC identifies delays in adding resources and infrastructure [40]. The number, location, timing, and operating behavior of new loads remain uncertain. Those uncertainties matter to reliability and to who pays if promised demand never arrives.

Who runs the grid, and who serves the customer?

A data center needs more than a nearby power line. It needs electricity supply, a connection, enough delivery capacity, and approval to use them. Four layers of authority shape those decisions [42].

LAYER	WHAT IT DOES	MICHIGAN EXAMPLE
Generation	Produces electricity in power plants and other resources	Utility-owned plants and independent generators
Transmission	Carries electricity over long distances on high-voltage lines	ITC and other transmission owners
Regional grid operation	Coordinates supply and demand, runs wholesale markets, and plans regional needs	MISO for most of Michigan; PJM for Indiana Michigan Power [45]
Local utility service	Delivers electricity to an address; often supplies it too	DTE, Consumers, a municipal utility, or a cooperative

Wholesale means buying power for resale. **Retail** means selling it to the customer who uses it. A regional operator can run a competitive wholesale market while the local utility remains the only company delivering electricity to a particular address. Supplier choice does not create a second set of local wires [42,43].

The national operator map

Regional transmission organizations (RTOs) and independent system operators (ISOs) coordinate large networks. The Midcontinent Independent System Operator (MISO) coordinates power across parts of 15 states and Manitoba, Canada. Its region reaches from the upper Midwest into the South and includes most of Michigan [49].

PJM Interconnection coordinates power in all or parts of 13 states and the District of Columbia. Its initials come from Pennsylvania, New Jersey, and Maryland, the original core; its region now also includes parts of Michigan [45,50]. These operators coordinate power flows, wholesale markets, and regional plans. They are separate from the companies owning the plants and wires and the state agencies approving retail utility rates [42,49,50].

FERC's map identifies MISO, PJM, the Southwest Power Pool (SPP), California ISO (CAISO), New York ISO (NYISO), ISO New England (ISO-NE), and ERCOT. Much of the Southeast, Northwest, and Southwest uses utility-led systems, with arrangements that vary by location. Those areas still trade power; lacking a full RTO/ISO does not mean there is no wholesale market. The map is a national overview, not a legal service-territory survey [42].

Local monopolies and regional markets can coexist

A **monopoly** has one provider in the relevant market. An **oligopoly** has a few dominant providers. The relevant market matters: two large utilities dominating much of a state's sales does not mean both compete to serve each address. DTE and Consumers generally serve separate territories. Michigan also has smaller investor-owned utilities, cooperatives, and municipal utilities [44].

Michigan permits alternative electricity suppliers, but limits their combined participation to 10% of a covered utility's prior-year weather-adjusted retail sales. The local utility continues to deliver the electricity. This is limited supply choice within a system of established delivery territories [43]. Do not describe Michigan as having no supplier choice or as having broad retail competition.

Michigan is part of these larger regional systems. Most of its grid is coordinated by MISO; Indiana Michigan Power participates in PJM [45,49]. A state border, utility territory, and regional operator boundary therefore answer different questions. The local map below shows utility territories from the MPSC's March 2026 snapshot; it does not assign every utility polygon to an operator.

Why ERCOT is different

The Electric Reliability Council of Texas (ERCOT) coordinates the grid supplying most of Texas's electricity demand. Texas policy allows retail competition in some service areas: customers choose a supplier, while regulated transmission and distribution utilities deliver power. Municipal and cooperative areas can differ; parts of Texas are outside ERCOT. Grid operation and retail-supplier choice are separate decisions [46,47].

Texas oversees ERCOT's wholesale market rather than FERC's usual wholesale-rate regulation. Federal reliability standards still apply to bulk-system participants [48]. “Outside FERC wholesale-rate regulation” does not mean “outside federal law.”

ARRANGEMENT	REGIONAL OR WHOLESALE LAYER	CUSTOMER-FACING LAYER
Michigan's major utility territories	MISO or PJM regional operations	Established delivery utility; capped alternative supply choice
ERCOT areas open to retail competition	ERCOT market and operations	Competing suppliers; regulated delivery utility
Municipal or cooperative service	May participate in a regional market	City-owned or member-owned provider; choice and oversight vary
Utility-led regions	Utilities coordinate operations and trade power	Often a utility combining generation, transmission, and delivery

Which layer the permitting bill changes

The transmission title expands federal siting and regional planning. The data-center provision assigns covered customers' added costs, using utility estimates subject to federal or state approval. State utility-rate and local permit processes still matter. New FPA 225 excludes ERCOT from its regional-planning requirements; that exclusion is not a blanket exemption from the bill or from federal law [1].

For a proposed campus, ask five separate questions: Who supplies its power? Who owns the connection and lines? Who operates the regional grid? Who approves the costs charged to customers? Who decides land use and permit conditions? “The grid” alone does not identify the decision maker.

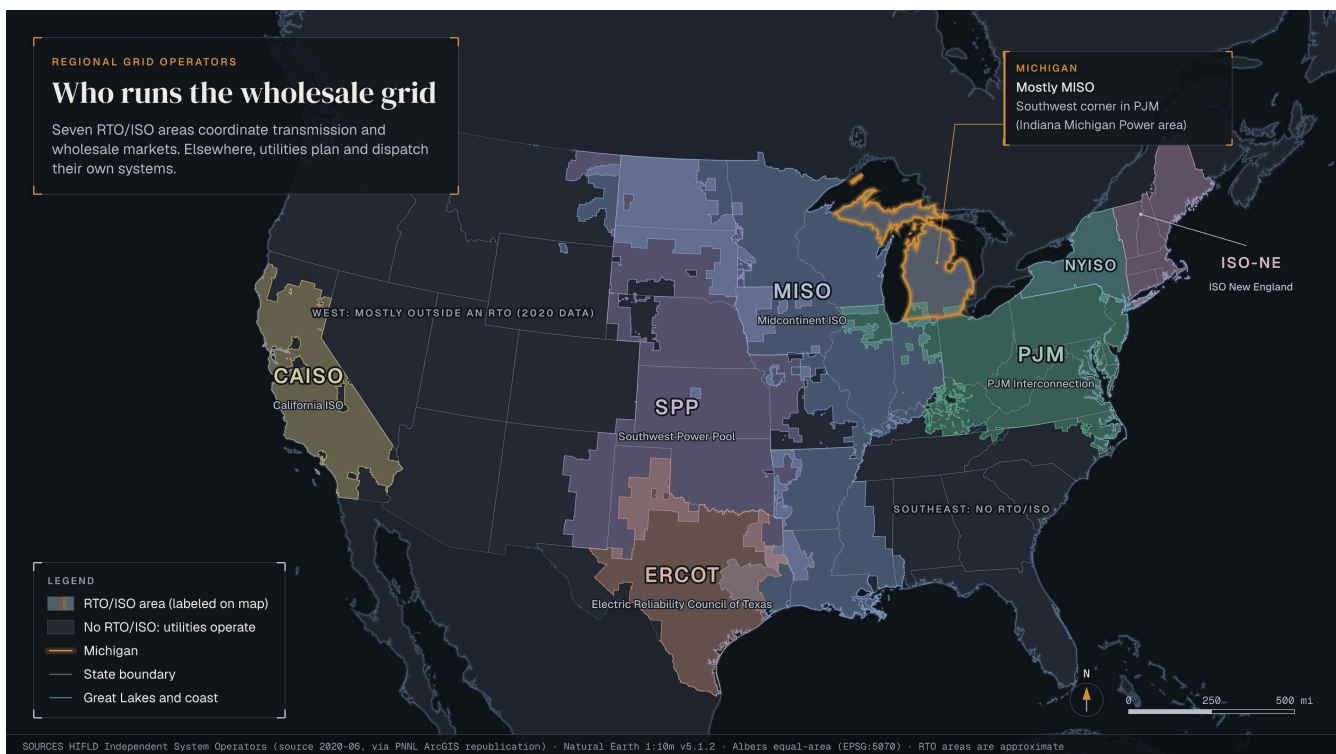


Figure 1: Regional grid operators (RTOs and ISOs) and the areas where utilities run their own systems. Michigan is mostly MISO, with Indiana Michigan Power's southwest corner in PJM.

Source: HIFLD Independent System Operators (2020 data, PNNL republication); Natural Earth; drawn with bc-geo and bc-viz. Boundaries are approximate.

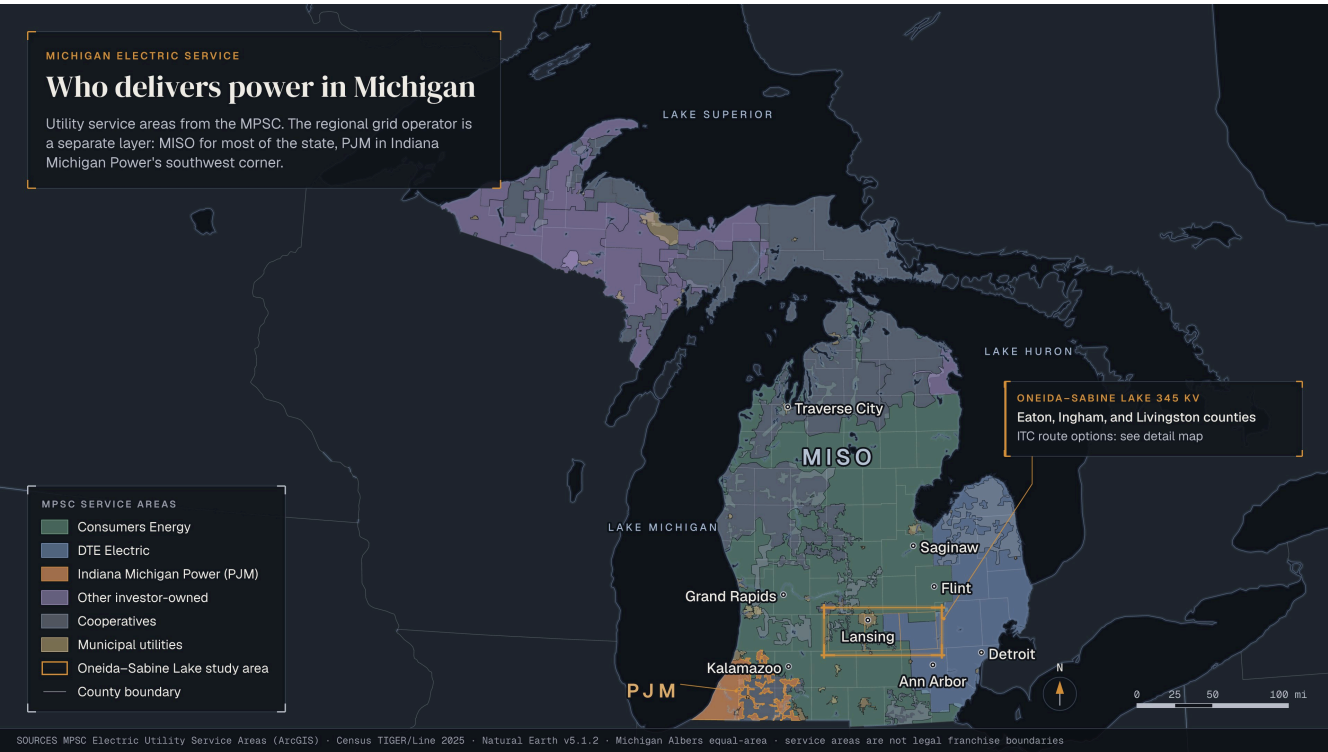


Figure 2: Michigan utility service territories within the regional grid. Delivery comes from the local utility; MISO or PJM runs the wholesale system above it.

Source: MPSC Electric Utility Service Areas (ArcGIS); Census TIGER/Line 2025; Natural Earth; drawn with bc-geo and bc-viz.

What the bill promises, and what it would change

Supporters and sponsors made specific claims about the bill. We checked each against the text. The tables cite the Federal Power Act (FPA). Regional planning covers one grid region; interregional planning links neighboring regions. The Energy Information Administration (EIA) collects federal energy data.

CLAIM	VERDICT	WHAT THE TEXT SAYS
Developers can get a fast resolution if an administration sits on permits	Partly	True for permits that need no environmental impact statement (EIS) or environmental assessment: a court decides within 120 days (Sec. 1403). Large EIS projects must wait 280 days after enactment and then prove a statistical pattern (Sec. 1402).
Developers are reimbursed if permits are pulled on a pretext	Largely true	25–50% of costs incurred, plus fees and delay costs (Sec. 1401). The trigger is the agency failing to prove an exception, not a finding of pretext.
The President signed off on dozens of stalled wind projects	Not in the bill	Reports describe an offer to clear about 30 of roughly 300 wind projects awaiting Pentagon review [6]. It is a side agreement the White House says may lapse [4].
Regional and interregional planning, a working backstop, uniform cost allocation	Mostly true	There is no minimum interregional transfer capability, and no fallback if a region fails to file a planning process (new FPA 225).
Three serious interconnection reforms	Partly	The section titled for interconnection (Sec. 2110) only starts a rulemaking. Reaching three requires counting cluster studies (Sec. 2106) and a grid-data mandate (Sec. 2111).

CLAIM	VERDICT	WHAT THE TEXT SAYS
Advanced conductors, virtual power plants, local transmission oversight	True, with a catch	Secs. 2109, 2108, and 2104. The "virtual power plant" access is fuel-neutral: a data center's on-site gas or diesel generator can qualify for wholesale markets.
Judicial review parity with pipelines	Partly	Direct court-of-appeals review matches the Natural Gas Act. There is no counterpart to that Act's review of an agency's failure to act.
Ratepayer protections with teeth	Partly	New data-center loads of 20 MW or more must pay incremental costs, but costs are the utility's estimate, with no disclosure or contested hearing required, and arrangements approved before enactment stay in effect (new FPA 228).
Data centers must report power use to EIA	Partly	EIA must add data-center load to Form 861, which utilities file. Data centers themselves get no new duty (Sec. 2114).
Modeling shows 71 million fewer tons of CO2 in 2035	Not a net estimate	The study covers four regions and only transmission and interconnection reform, and it assumes demand is the same with or without reform [9]. It cannot show load that easier power access adds.
Landowners get a voice (sponsors)	Partly	FERC must "take into account landowner input" (new FPA 216(d)(3)). No standard says what that input can change, and condemnation moves to federal court rules.

Background and status

The four negotiators were EPW Chair Shelley Moore Capito (R-W.Va.) and Ranking Member Sheldon Whitehouse (D-R.I.), and ENR Chair Mike Lee (R-Utah) and Ranking Member Martin Heinrich (D-N.M.). The White House took part directly, including on a side agreement over stalled wind approvals [4,6].

DATE	EVENT
September 30, 2026	The four senators present the bill, and the committees post the discussion text [1,18]. A dispute over offshore wind language delayed the unveiling by several hours [15]. A White House official says, "We support this deal" [19].
September 29, 2026	A Heinrich aide says negotiators have "reached a deal on text" [5].
September 25, 2026	Heinrich and Whitehouse say senators need "good, strong, legislative text and deliberation" before a vote [17].
September 24, 2026	The vote is pushed past the midterms. Majority Leader Thune says Democrats "caught the car" [4].
December 2025	The House passes the SPEED Act, 221–196, with 11 Democrats in favor [8]. Senate talks stall after the President pauses five nearly complete offshore wind farms [20].

Path to law. Capito's goal is to make the bill the Senate's first vote after the November 3 election, and Whitehouse says the White House agreed to that schedule [19,20]. The bill needs 60 votes to clear a filibuster. It must then be reconciled with the House, which has passed only the SPEED Act, and signed before the 119th Congress ends in January 2027 to become law in this Congress. Colleagues' changes would come through a manager's amendment [4].

Landowners and host communities

The sponsors say landowners get a voice [18]. The text requires FERC to consider their views, but would narrow their options for challenging federal decisions. Eminent domain means acquiring land or land rights without the owner's agreement, with compensation. Condemnation is the court process used to do that.

PROVISION	WHAT CHANGES FOR LANDOWNERS AND NEIGHBORS
Who counts (new FPA 216(a))	An "affected landowner" owns land the line crosses or that is used as a facility site; land abutting the proposed site or right-of-way, or abutting an existing utility right-of-way, within 500 feet of the line; or land with a home within 500 feet of the right-of-way. Owning land within 500 feet is not enough by itself.
Input (new 216(d)(2)–(3))	FERC must give owners "a reasonable opportunity to present their views" and "take into account landowner input." No standard says what input can change, and no duty to study route alternatives is stated.
Parallel review (new 216(d)(6)–(7))	For lines of 345 kV or more, the developer may file at FERC at the same time as the state, and FERC "shall commence a proceeding." FERC may permit the line only if the state lacks authority, the developer cannot qualify, or the state has withheld approval for more than a year.
Condemnation (Sec. 2101(d))	Under a FERC permit, condemnation would follow Federal Rule of Civil Procedure 71.1 instead of conforming to the practice of the state where the land sits.
Host-community payments (FPA 219)	Utilities may recover prudently incurred payments to host jurisdictions in rates, spread under the line's cost allocation. Nothing requires the large loads a line serves to bear them.
Court (Secs. 1110, 1205, 2301)	150 days to sue, only on issues raised in a detailed comment, with "direct harm" required for NEPA and historic claims. A win usually means a remand while construction continues.
Lock-in (Sec. 1401)	Later agencies face limits on changing covered permits, with damages if they cannot prove a listed exception.

OUTSTANDING LEGAL QUESTIONS

It is unsettled which Michigan condemnation protections survive a Rule 71.1 taking under a FERC permit. Those protections include attorney-fee reimbursement under the Uniform Condemnation Procedures Act (MCL 213.66), the 125% floor for a principal residence, and the public-use and necessity standards of Mich. Const. art. X, sec. 2. Also unsettled is whether a MISO-planned line entirely within Michigan meets the backstop's test of carrying power "in interstate commerce"; the test does not require crossing a state border. Michigan's Act 30 already gives the MPSC one year to decide, which makes the backstop unlikely there but not impossible.

	Landowners on routes	Host communities	Local challengers	State regulators	Tribes	Ratepayers
FERC backstop, 345 kV parallel review	2	1	1	2		
Condemnation under federal Rule 71.1	2					
150-day limit, comment and harm gates	2	1	2		1	
Remand-only remedies, no injunction	2	1	2		1	
Title IV permit lock-in	1	1	1			
Clean Water Act 401 limits			1	2	1	
NEPA exclusions, state-review substitution	1	1	2			
NHPA adverse-effect narrowing		2	1		2	
Host-community payments in rates						1
FPA 228: utility estimates, grandfathering				1		1

Whose ability to object shrinks. Our assessment of each provision group: 2 marks a group that loses substantial ability to object or bears a new cost; 1 marks some loss; blank means little direct effect. Source: section-by-section reading of the discussion text [1].

Faster approval does not guarantee cleaner power

The bill removes obstacles to building. It adds no overall construction limit or emissions cap. Other environmental laws and permit conditions would still apply.

- **No emissions limits.** The words "greenhouse" and "emissions" do not appear in the 417 pages. The Clean Air Act appears once, in a savings clause for pipeline work in existing rights-of-way (p. 205).
- **On-site fossil power gains market access.** A "qualifying behind-the-meter" resource is "an energy storage system, a fuel cell system, a generator, or other resource" that can respond within 15 minutes (Sec. 2108). A data center's gas turbines or diesel sets can qualify for wholesale energy and capacity markets.
- **Bring your own generation, any fuel.** States may require a large load to procure "new generation resources sufficient to serve" its demand (new FPA 228(c)). The provision does not specify a fuel.
- **Fossil permits are protected too.** Title IV shields 46 listed project types, including coal power, coal production, gas production, pipelines, and LNG.

The published model reviewed here of the grid provisions assumes demand is the same with or without reform [9]. If power access prevents a data center from being built, easing that constraint could add demand. That demand could require more generation and grid construction. The fuel, emissions, and land effects would depend on the projects and their conditions; the sources do not establish a single outcome. Two ef-

fects cut the other way and have not been measured: gas that would be built anyway, and upgrades in existing corridors (Sec. 2102) that replace new lines. We found no estimate of the bill's net emissions effect in the sources reviewed.

How the deal compares with earlier bills

The Senate deal builds on two earlier bills: the 2024 Energy Permitting Reform Act (Manchin–Barrasso), which cleared committee but died, and the 2025 House SPEED Act [25,8]. The table uses NHPA for the National Historic Preservation Act and CWA for the Clean Water Act. Vacatur means canceling an agency decision; a remand sends it back for correction.

ISSUE	2024 SENATE BILL (MANCHIN–BARRASSO)	2025 HOUSE SPEED ACT	2026 SENATE DEAL
Deadline to sue	150 days, energy and mineral projects	150 days	150 days, across NEPA, NHPA, CWA 404, ESA, and energy authorizations
Remedy when NEPA is violated	Vacatur still allowed; 180-day agency deadline on remand	No vacatur or injunction	Remand only; no vacatur, injunction, or NEPA-based preliminary injunction
Protection of issued permits	None	Limits on revoking permits, but actions taken from January 20, 2025, to enactment are exempt	Bar on revocation for permits in effect on or after September 16, 2026, with damages and a same-judge rule
FERC backstop siting	Lines of 100 kV or more; no DOE corridor	None	Lines of 230 kV or more; no DOE corridor; parallel state and federal review
Interregional planning	Joint plans; FERC resolves disputes	None	Joint plans; no fallback if a region fails to file
Fossil leasing	Mandatory onshore and Gulf oil and gas lease sales; LNG decision deadline	None	No lease-sale mandates; drilling-permit and NEPA exemptions instead
Clean Water Act, ESA, NHPA	Largely untouched (outside the committee's jurisdiction)	NEPA only	Substantial changes to all three

For states and landowners, the transmission provisions expand federal authority to approve qualifying projects that carry interstate power. They remove the prior federal corridor requirement and allow federal and state review at the same time for lines of at least 345 kV. A federal permit could give the developer power to acquire land rights through eminent domain, with compensation. These are changes in who can approve a project and obtain its route; they do not guarantee that a line will be built or that electricity bills will fall [1].

The political trade also matters. Democrats gained stronger protection for issued permits. Republicans gained changes to the Clean Water Act, ESA, and NHPA that the 2024 bill did not reach, in place of its lease-sale mandates.

It's not just Michigan

The same thing is happening around the country. Big new loads, mostly data centers, drive new power lines. Everyone else's bills pick up the cost, and landowners give up the land. Here are five examples from state officials, independent market monitors, courts, and news reporting. We treat utility and developer statements as claims, not facts.

WHERE	WHAT HAPPENED	WHAT THE BILL WOULD CHANGE
Maryland (PJM)	The state's Office of People's Counsel told FERC that PJM's rules assign Maryland customers about \$2 billion of \$22 billion in regional projects advanced over three years, adding about \$1.6 billion to bills over a decade, for lines it says serve data centers [51,52].	Sec. 2107 sets a pricing policy for "computational load," but costs rest on utility estimates, and previously approved arrangements stay in effect.
PJM region	PJM's independent market monitor attributes \$6.3 billion, 38%, of the latest capacity auction's charges to data centers, and \$29.4 billion over the last four auctions [53].	Nothing in the bill addresses capacity-market costs. Sec. 2108 opens those markets to qualifying on-site generators, including gas and diesel.
Wisconsin (MISO)	The state commission told FERC that the zonal cost method used by American Transmission Company (ATC) can shift a large load's network-upgrade costs to other customers "even if ... load materializes exactly as anticipated," and that "Speed to Power" must not excuse ignoring cost causation. One new large load required eight reliability projects [54].	The commission cited "structural hurdles" in the FERC-approved MISO tariff, which also governs Michigan's transmission owners. Sec. 2107 orders a new FERC pricing policy for computational load, but over a timeline of 270 days or more, plus rulemaking.
Texas (ERCOT)	Regulators approved a roughly 370-mile, 765 kV line, part of a planned network of about 1,200 miles. Towers stand about 15 stories tall, on a cleared right-of-way about 200 feet wide. After a 12-hour legislative hearing, dozens of landowners who had waited to testify never spoke [55,56].	ERCOT is excluded from the new siting and planning sections, so lines like these, and Texas landowners, fall outside the transmission title's federal backstop and its landowner-input rules.
Missouri, Illinois (Grain Belt Express)	Missouri regulators granted this roughly 800-mile direct-current line eminent domain in 2019. Illinois's Supreme Court upheld its state permit in January 2026 over a challenge led by farmers. DOE canceled its \$4.9 billion loan guarantee in 2025 after eminent-domain objections [57,58].	Interstate lines like this are what the 230 kV backstop and Rule 71.1 condemnation are built for.

These cases cross party lines and fuel types. Grain Belt carries wind power. The Texas lines serve oil fields and data centers. PJM's costs follow data center demand no matter the fuel. The questions are the same ones we ask in Michigan: who picks the route, who pays, and would this demand even exist without the new lines?

	Wind and solar	Transmission	Storage, geothermal	Gas pipelines, LNG	Oil and gas production	Mining
Permit certainty (Title IV)	2	2	2	2	2	2
150-day limit, remand-only remedies	2	2	1	2	2	2
FERC backstop siting and planning	1	2	1			
Clean Water Act 401 limits		2		2		1
404(c) veto window, nationwide permits		1		1		2
ESA consultation changes	1	1	1	1	1	1
Existing right-of-way exemptions		2		2		
VPP and distributed-resource access	1		2			
Renewable deadlines on federal land	2	1	1			
Geothermal leasing and permits			2			
Drilling permit and NEPA exemptions			1		2	
Mill sites						2
Offshore transmission and sanctuaries	2	1				

Which industries benefit. Our assessment of each provision group: 2 marks a primary or expressly named beneficiary; 1 marks a sector that also benefits; blank means little direct effect. The litigation and permit-certainty rows are technology-neutral; most other rows are not. Source: section-by-section reading of the discussion text [1].

Permit certainty (Division A, Title IV)

Democrats sought Title IV after the administration paused nearly complete offshore wind farms [20]. It protects whatever gets permitted: pipelines, LNG terminals, gas plants, coal, and mining receive the same shield as wind, solar, and transmission. For a landowner or neighbor, it means a permitted line or pipeline is costly for any later administration to revisit.

SECTION	WHAT IT DOES	REMEDY
1401: No revoking issued permits	Agencies may not revoke, suspend, or alter a permit in effect on or after September 16, 2026, for a project with a non-federal sponsor. There are five exceptions: a court order, a permit violation, fraud, urgent harm shown by new information, or the sponsor's own request. The agency must prove an exception by clear and convincing evidence.	Reinstatement; an injunction only the same judge can lift; fees; delay costs; and 25–50% of all project costs incurred , paid from the Judgment Fund

SECTION	WHAT IT DOES	REMEDY
1402: No freezing a class of projects	Bars a "pattern of disparate treatment" against any of 46 listed project types, or another type a court certifies. The pattern must be statistical, intentional, and last at least 180 days (280 for EIS or environmental assessment permits). If the government withholds its approval data, the court presumes the data would hurt it. Permits that need no EIS or assessment get a new 1-year decision deadline.	Injunction, fees, and 50–100% of expected construction cost . The developer must build the project or repay. Class actions are barred.
1403: Fast lane for stalled permits	An applicant whose permit needs no EIS or assessment and misses the 1-year deadline may sue without showing a pattern.	Court decides within 120 days; the agency then has 60 days. No money damages.

The committee summary says an administration that blocks a class of projects faces "legal action and fines" [2]. The text contains no fines or civil penalties; the remedy is damages paid to the developer.

WATCH POINTS

- **The wind deal is outside the bill.** Sec. 1401(b)(4)(E) sends challenges to any new federal action against a project back to the judge who enjoined a stop-work order issued against it in the year before enactment. That appears aimed at the 2025–2026 offshore wind disputes, but no project is named.
- **Open legal questions.** The damages and payment provisions raise possible Appropriations Clause and separation-of-powers challenges that remain unresolved.
- **Timing.** The September 16 cutoff predates the bill's release. The text does not say how it treats agency actions taken before enactment, and it contains no sunset.

Transmission (Division B, Title I)

The transmission title expands FERC's siting authority and regional planning duties. It removes the need for the Department of Energy (DOE) to designate a corridor before FERC can act, under a beneficiary-pays rule. It expands federal siting power and eminent domain for large lines carrying interstate power; the landowner section above covers what that means on the ground.

SECTION	WHAT IT DOES
2101: FERC backstop siting (rewrites FPA 216)	FERC may permit lines of 230 kV or more that will carry power "in interstate commerce" and are "necessary in the national interest." A line need not cross a state border. No DOE corridor is required first. For lines of 345 kV or more, FERC and state reviews may run at the same time. FERC may issue a permit only if the state lacks siting authority, the applicant cannot qualify there, or the state has withheld approval for more than a year. Eminent domain remains. Challenges to federal and state orders, including state water-quality certifications, go directly to the courts of appeals.
2101(e): Cost allocation	Costs go to customers that benefit, "at least roughly commensurate" with benefits, including six listed benefits. Customers who receive no benefit, or only a trivial one, cannot be charged.
2103: Planning (new FPA 225)	FERC must issue a rule within 180 days. Each region must plan regionally, and neighboring regions must plan jointly, using common inputs and benefits. A project selected in a plan automatically meets most backstop-siting findings. Compliance with FERC orders in effect at enactment, including Order 1920 and orders reconsidering it, satisfies the regional planning and cost-allocation requirements. DOE keeps a triennial congestion study, which now steers DOE financing, not siting.

SECTION	WHAT IT DOES
2104: Local planning oversight (FPA 226)	A state may refer a utility's local transmission planning to FERC. Remedies include a lower return on equity and fines of up to \$5 million per facility.
2105: Right of first refusal	Bans federal rights of first refusal for projects selected in regional or interregional plans.
2106: Consolidated planning (FPA 318)	Regions must plan transmission and 20-year generation needs together, publish interconnection locations with fixed upfront per-MW costs, and run cluster studies with withdrawal penalties.

WHAT IT LEAVES OUT

There is **no minimum interregional transfer-capability requirement**. If a region fails to file a planning process, FERC may grant only a 6-month extension; the bill provides no FERC-drafted plan or other fall-back. The Electric Reliability Council of Texas (ERCOT) is expressly excluded from both new siting (FPA 216(k)) and planning (FPA 225(b)), and public power and small cooperatives are covered only if they opt in.

Sec. 2102 also removes reconductoring (replacing wires), uprates (increasing capacity), and storage in existing rights-of-way from NEPA and Section 106 review. It gives interstate gas pipeline work in existing rights-of-way the same treatment.

Interconnection, grid technology, and ratepayers

The data-center cost rules are the bill's main answer to who pays. They cover costs only: nothing on land, siting, water, noise, or disclosure.

AREA	SECTION	REQUIREMENT
Data-center costs	2107(b), new FPA 228	New data-center loads of 20 MW or more bear all incremental costs they cause. Utilities collect financial assurance before building. States may charge more, rank requests by ratepayer benefit, or require the load to bring its own generation. Costs are "estimated by the electric utility," subject to FERC or state approval; no disclosure or contested hearing is required. Arrangements approved before enactment "shall remain in effect."
Data-center costs	2107(a)	FERC revises its 1994 transmission pricing policy so computing loads pay embedded plus incremental cost, through three rounds of deadlines (about 2.5 years).
Distributed resources	2108, new FPA 229–230	Regional transmission organization (RTO) rules that exclude behind-the-meter aggregations of 100 kW or more become unlawful 18 months after enactment. Distribution utilities may not purposefully block these resources; the rules are voluntary for public power and most cooperatives. The definition is fuel-neutral, so on-site gas and diesel generators qualify.
Grid technologies	2109, new FPA 231	FERC-regulated utilities must use "best-available" conductors and deploy advanced transmission technologies whenever the benefit-cost ratio exceeds 1, or face a FERC penalty such as a lower return on equity.
Interconnection	2110; 2111 (new FPA 232)	FERC starts a rulemaking on automating interconnection studies. Anyone holding grid data must provide it within 15 days of a transmission provider's request.
Disclosure	2114	EIA adds data-center load to Form 861, which utilities file.

The cost rules are mandatory, unlike the House data-center bill Senate Democrats blocked on September 30, saying its cost requirements were optional [16]. But in Michigan, the grandfather clause appears on its face to cover DTE's Saline Stargate contracts, which the MPSC approved without a contested case and the Attorney General is appealing (Part II). Drafting issues remain: Sec. 2115 cites a nonexistent FPA section 226A, Sec. 2215 cites a nonexistent "section 205(d)" for its new mine fund, and Sec. 2107(a) and new FPA 228 use different thresholds and cost standards.

Environmental review and litigation

For affected residents, the court remedies matter as much as review deadlines. A remand sends a decision back to the agency for correction. Vacatur cancels the decision; an injunction orders work or another action to stop.

RULE	WHERE IT APPLIES
150-day deadline to sue (the general default is 6 years)	NEPA (Sec. 1110), Section 404 (Sec. 1205), ESA biological opinions (Sec. 1305), NHPA (Sec. 2301), and energy, mining, and lease-sale authorizations (Sec. 2201)
Only parties who filed a detailed comment on the issue may sue	NEPA, NHPA, Section 404
Plaintiffs must also show "direct harm"	NEPA, NHPA
Remedy is remand, without vacatur or injunction; the agency has 180 days or less to cure	NEPA and NHPA; Section 404 unless there is "imminent and substantial danger"
No preliminary injunction for a NEPA or NHPA violation	NEPA, NHPA
Cases go directly to the court of appeals, which must give "substantial deference" to the agency	NEPA, NHPA

- **NEPA (Title I).** Keeps the 1-year and 2-year review deadlines, rewrites the sponsor's right to sue over missed deadlines, and adds workload and travel sanctions on senior officials. Narrows "major federal action" to exclude loan-only projects and certain right-of-way work. Agencies may skip NEPA where a state review "serves a similar function." The effects standard stays "reasonably foreseeable," but alternatives must fit the sponsor's goals. Page limits do not change. An order of the Council on Environmental Quality (CEQ) resolving an interagency dispute is unreviewable and counts as "full compliance" with the consultation duties it covers.
- **NHPA (Secs. 2301–2302).** Rewrites Section 106 with fixed clocks that run alongside NEPA. Narrows "adverse effect" to exclude most visual, noise, and temporary effects. Tribes gain a statutory consultation role, and the Historic Preservation Fund is authorized at \$200 million a year for FY2027–2036.
- **Clean Water Act (Title II).** States may deny Section 401 certification only on clear and convincing evidence, and silence past the deadline waives review. For gas pipelines and transmission alike, review covers only a "direct point source discharge," an undefined term. EPA's Section 404(c) veto is confined to the period between a complete application and permit issuance.
- **ESA (Title III).** Formal consultation drops from 90 to 60 days. States that show capacity may take over consultation, subject to audits and an applicant opt-out. The citizen-suit provision is not amended.

WHOSE ABILITY TO OBJECT SHRINKS

These rules fall on the people who usually bring these cases: landowners, neighbors, tribes, and local groups. Every kind of developer gains, from solar and transmission to pipelines, LNG terminals, mines, and lease sales. The Section 401 changes reduce states' authority over pipelines and power lines alike. The Center for Biological Diversity's claim that the bill "exempts the vast majority of damaging fossil fuel projects from any meaningful review of the threats and harms to imperiled wildlife" [12] overstates the text; there is no blanket ESA exemption, although reissued nationwide permits skip ESA Section 7 consultation (Sec. 1204).

Fossil, mining, and other provisions

Several of the most fossil-friendly provisions sit in subtitles about geothermal energy and mining.

SECTION	WHAT IT DOES	MAIN BENEFICIARY
2211	No federal drilling permit for wells on non-federal land where the United States owns under 50% of the unit's minerals. State rules govern, which likely removes the federal trigger for NEPA, ESA, and NHPA review.	Oil and gas
2229	Listed oil, gas, and geothermal activities on BLM and Forest Service land are "not a major Federal action" and carry no NEPA requirements.	Oil and gas; geothermal
2102(b)	Gas pipeline repair, looping, compression, and expansion in existing rights-of-way are exempt from NEPA and Section 106 review.	Gas pipelines
2215	As many 5-acre mill sites as are "reasonably necessary" for waste rock and tailings; a new Abandoned Hardrock Mine Fund receives a \$400-per-site annual fee and hardrock lease receipts.	Mining
2213–2214	Deadlines and categorical exclusions for wind, solar, storage, and grid work on federal land.	Renewables; transmission
2221–2229	Annual geothermal lease sales, a 30-plus-30-day drilling-permit clock, and test-well exclusions.	Geothermal
2251–2252	Offshore transmission routes and cables through marine sanctuaries. Offshore wind leasing stays tied to oil and gas lease sales.	Offshore wind

Apart from four coal project types protected by Sec. 1402, we found no coal-specific provisions, and we found no oil and gas lease-sale mandates.

Modeled impacts, and what they leave out

The model reviewed here is from C2ES and Greenline Insights [9]. It studies interregional transmission and interconnection-queue reform in four regions that serve 54% of U.S. electricity demand.

RESULT, REFORM VS. BUSINESS AS USUAL	ESTIMATE
Power-sector CO ₂ , four regions, 2035	9% lower (71 million tons)
Grid costs, four regions, 2035	\$7 billion lower (\$13 billion under high gas prices)
Residential bills, four regions, 2035	\$1.1 billion lower

RESULT, REFORM VS. BUSINESS AS USUAL	ESTIMATE
Cost of power shortfalls, 2035	At least 76% lower
Cumulative grid costs, nationwide, 2026–2040	About \$125 billion lower
Cumulative residential bills, nationwide, 2026–2040	\$19 billion lower
Capacity: storage, solar, wind	65%, 22%, and 14% higher

LIMITS OF THE MODEL

C2ES is an advocate for permitting and transmission reform, so its conclusions are a claim to test. The model assumes the same demand with or without reform ("meeting the same growing demand"), so it cannot show load that easier power access adds. It models reforms "under debate in Congress," not this bill's text, and covers only transmission and interconnection, not the NEPA, Clean Water Act, ESA, behind-the-meter, or fossil provisions. We found no net emissions estimate for the bill and no Congressional Budget Office score.

Reactions and open questions

Every position below comes from an interested party: trade groups for the industries that gain, or advocacy groups. They are claims, not findings.

ORGANIZATION	POSITION	MAIN POINT
Clean Energy Buyers Association	Support	"A generational opportunity"; says its study shows constraining new solar and wind could cost more than \$121 billion from 2027 to 2033 [10].
American Clean Power	Support	The deal is "encouraging" and technology-neutral; without it, clean-power additions could fall off a "cliff" in 2028 or 2029 [11].
American Petroleum Institute	Support	"A generational opportunity to fundamentally transform a broken permitting system" [23].
U.S. Chamber of Commerce	Support	Urges "swift action" to send the bill to the President [24].
C2ES	Support	Published the modeling above [9].
NRDC	Undecided	Transmission provisions are "desperately needed," but asks whether they outweigh "rollbacks to the foundational environmental laws" [22].
Center for Biological Diversity	Oppose	"A climate kill shot"; says "the minor benefits for renewable energy corporations are massively dwarfed by the gifts to the fossil fuel industry" [12].
Defenders of Wildlife	Oppose ESA title	Says median formal consultation already takes about two months; objects to state assumption and injunction limits [13].
Oil Change International	Oppose	A "dirty deal" for fossil fuels, LNG, and data centers [14].

Republican senators will scrutinize FERC's new transmission authority; Democrats will scrutinize the provisions against slow-walking permits [7]. The White House now backs the deal [19]. Whitehouse says the administration's "return to regular order" for wind and solar is still "unresolved," though it has made a "very reasonable opening proposal" [19,20]. Analysts have estimated that federal permitting holds put more than 100 gigawatts of renewable projects at risk [21].

Open questions

- *What will the White House's "return to regular order" for wind and solar permits look like, and will it be in writing before the vote?*
- *If Democrats gain seats in November, will they still want a lame-duck vote, or reopen terms in January?*
- *Can the Senate bill be reconciled with the House's SPEED Act, which lacks the transmission and grid titles?*
- *Will a manager's amendment change the ESA and Section 401 provisions?*

ABOUT THIS BRIEFING

Part I goes through what the bill says and what it means for landowners, ratepayers, and communities. Part II tests the builders' record. Provision summaries come from a section-by-section reading of the discussion text released September 30, 2026 [1]. Section numbers and quotations should be checked against the official PDF before use in any filing. The text may change before a vote.

PART II

The parties' record

What documents, rulings, filings, and independent reporting show about ITC and METC, DTE, Consumers Energy, MISO, and the Saline Stargate partners.



How we built this part

We searched news, public records, regulatory filings, and court documents from 2024 to September 2026 on six parties and seven topics, kept 334 results judged relevant, read the 214 documents behind them, and drew 1,525 statements, each tied to a quote found in the source. Each section is written from those statements only, and every cited statement was checked against the others for support and contradiction. Statements by utilities, grid operators, developers, trade groups, and sponsors are reported as claims. Owner-side condemnation lawyers are labeled as such. Findings of regulators and courts carry the most weight.

ITC owns transmission assets; Michigan Electric Transmission Company (METC) is its Michigan subsidiary. DTE and Consumers Energy are utilities. In this part, a ratepayer is a utility customer paying regulated charges. An ex parte approval has no contested hearing where opposing parties can test evidence. A gigawatt measures power and equals 1,000 megawatts.

Land and eminent domain

What the records show

Lawyers who represent landowners in condemnation cases say owners face risks before a permit is issued: developers and utilities seek options or easements before, or alongside, siting decisions; those instruments can limit how owners use their land; and approval can allow a court to compel the sale of transmission easements. [59,60]

The clearest Michigan regulatory response was the Michigan Public Service Commission's 2025 response to METC's engagement failures on two ITC projects approved by MISO in 2022. [61]

ITC/METC: easement acquisition, route engagement, and Commission conditions

ITC's Michigan subsidiary, METC, began land-acquisition outreach for easements while pursuing MPSC approval for the Helix-to-Hipple and Oneida-to-Nelson Road transmission projects. [59]

Michigan law allows a transmission-project certificate to provide a path to acquire easements through eminent domain with compensation to landowners. [60]

Owner-side condemnation lawyers reported that ITC-contracted agents were approaching owners through informal easement negotiations without an official good-faith offer or professional real-estate appraisal. [62]

Owner-side condemnation lawyers also reported that METC option forms did not identify the area subject to the easement, left its location to METC's sole discretion after a later survey, allowed unannounced and unaccompanied entry, allowed use of property outside the easement area for construction without compensation, and allowed crossing an entire property for access without paying for that access right. [63]

The same lawyers reported that METC had initially sought unlimited numbers and sizes of lines in a prior Coldwater-area farmland project, then revised the easement to one single-circuit 138-kV line after being told it would likely face a challenge. [59]

The MPSC reprimanded METC in 2025 for inadequate public engagement on two earlier ITC projects approved by MISO in 2022. [61]

On July 10, 2025, the Commission required METC to explain how affected owners could submit minor route-change requests, consider those requests, and file monthly reports stating how each request was accommodated or why it could not be accommodated. [64]

The Commission also required METC to give landowners on and adjacent to approved routes contact information, report communications monthly, and investigate every landowner noise complaint for a possible system issue. [65]

For the Nelson-to-Oneida line, the Commission approved an alternate route because it affected fewer wetlands and water-saturated soils and used an existing utility right of way. [65]

The Commission separately directed staff to develop voluntary Act 30 filing guidelines addressing alternative routes, estimates of private benefits, and applicant-landowner interaction. [64]

Consumers Energy: acquisition terms and owner complaints

Consumers obtained an exclusive option in 2025 to buy about 120 agricultural acres in Lima Township for a potential power-plant site; the option runs through February 24, 2028, with a possible two-year extension. [66]

Consumers' land-use planner said site selection requires an electric line, a gas line, and a willing property owner. [66]

On Old Mission Peninsula, Consumers' proposed easements would permit tree removal or trimming and ingress and egress, while restricting improvements including sheds, septic systems, wells, and pools. [67]

Consumers told the MPSC that the requested dimensions matched its established high-voltage-distribution standards and that additional vegetation-management rights were needed. [67]

Consumers told the MPSC that homeowners had filed only an informal complaint and that no formal complaint or docket then existed. [67]

Owner-side condemnation lawyers reported that Consumers filed more than 30 Roscommon County lawsuits to facilitate a new substation and, in multiple represented cases, did not commission real-estate appraisals. [68]

Saline Township Stargate: local denial, suit, and consent judgment

Saline Township's board voted 4-1 on September 10, 2025, to deny changes to zoning of 575 acres for the data-center project. [69]

Related Digital and landowners then sued in Washtenaw County Circuit Court, alleging unconstitutional exclusionary zoning and seeking to stop township interference with the proposed use. [69,70]

A consent judgment settled the litigation, which alleged that the denial violated state law and due process. [71]

The settlement provided \$4 million for farmland preservation, \$2 million for community investment, and \$8 million for fire services, water-resource protections, and a decommissioning fund. [69]

The agreement also imposed water-use and noise restrictions, preserved agricultural land, and limited expansion; reporting says construction began soon after the court-approved agreement. [72]

Who pays

Costs need public testing

Michigan has approved large-load arrangements with formal ratepayer protections, but the principal Saline arrangement was approved ex parte with heavily redacted terms, and its protection against cost shifting remains disputed in litigation and regulatory challenges. [73,74,75]

The clearest completed commission findings are narrower than the parties' assurances: the MPSC required DTE to track Saline service costs, have the data-center owner pay them, place DTE at risk for any unpaid serving costs, and curtail the data center before other customers in a shortage. [76,77,78]

Michigan: DTE, Saline, and Consumers

On December 18, 2025, the MPSC conditionally approved two DTE special contracts to serve the 1.4-GW Saline Township Stargate data center being developed by OpenAI, Oracle, and Related Digital. [79]

The approval was ex parte, denying advocacy, environmental, and other groups the opportunity to submit testimony in a contested case. [76,80]

The Commission ordered DTE to represent that payments under the rate schedule and contracts would cover generation, transmission, distribution, and other costs of service, without charges to other customers. [74]

DTE accepted conditions in January 2026 that aggregate customer revenues cover costs of service. [78]

DTE and Related Digital say the project will pay its own way, use existing resources supplemented by project-financed battery storage, and not affect existing customers' supply or rates. [81,82]

Those are statements by interested parties, not a completed finding that the spending was reasonable on the redacted contracts.

The Attorney General alleged that DTE omitted or glossed over investment costs, did not provide customary modeling, and withheld key terms through extensive redactions. [79]

The Attorney General sought rehearing and a contested case to examine the redacted contracts, test the no-rate-increase assertion, and verify protections if projected service is not taken. [83]

Earthjustice, Sierra Club, Michigan Environmental Council, and NRDC asked the Michigan Court of Appeals to overturn the ex parte approval, arguing the contracts committed more than \$500 million of new substation and transmission infrastructure that could be recovered through rates without an evidentiary hearing. [75]

The MPSC later declined reconsideration because the opponents lacked standing, while the appellate challenge remained filed. [84,75]

For Consumers, the MPSC approved amended large-load service terms in Case U-21859 on November 6, 2025, for new demand at a single site of at least 100 MW and specified aggregated common-ownership loads. [85,86]

The Commission required a separate ex parte case for each large-load customer showing that residential, commercial, and industrial customers do not subsidize costs caused by that customer. [85]

It also required data centers to demonstrate that they bear the costs of lines, substations, and other infrastructure before interconnection. [87]

MISO and transmission owners

FERC's June 18, 2026 order directed MISO and its transmission owners to show cause why the tariff was not unjust and unreasonable, including for failure to mitigate large-load cost shifting among transmission customers. [88]

FERC said the tariff should address that risk through transparency on network-upgrade assignment and a cost-recovery agreement under which large-load customers bear the associated costs and risks. [88]

This was a show-cause directive, not a final finding that MISO had shifted costs. [88]

MISO's broader transmission-cost record is contested: its Tranche 2.1 portfolio was approved at \$22 billion, while five state commissions alleged flawed modeling overstated benefits, and MISO's market monitor also criticized its needs and benefits analysis. [89,90,91]

ITC's coalition argues that federal solicitation requirements delay needed MISO transmission and raise customer costs, including a claimed 16-to-20-month delay where exemptions are unavailable. [92,93]

These are ITC coalition claims, not commission findings. [92]

Comparable commission findings

Wisconsin's PSC unanimously required We Energies data-center operators to pay the full cost of new generation and fuel for their facilities, and adopted a temporary minimum transmission payment based on projected energy needs. [94]

That completed state-commission action provides the most direct regional example of explicit allocation of new generation, fuel, and transmission costs to large loads. [94]

The parties' track record

Assurances need evidence

Do not take affordability, public-process, or community-protection assurances at face value where the assurance depends on confidential contracts, future compliance, or disputed planning models. The strongest adverse facts are a federal Clean Air Act judgment against DTE, Michigan ratepayer disallowances involving DTE, a Consumers Energy service-quality settlement, an MPSC reprimand and added reporting duties for METC, and local fines against the Saline developer. [95,96,97,61,98]

There are no final findings yet on MISO's current large-load rules, the Saline project's wastewater permit, or several local-process allegations; those matters remain preliminary, proposed, appealed, or alleged. [99,100,79]

PARTY	DOCUMENTED GROUND-LEVEL TEST
DTE	Federal court liability, \$100 million judgment, ratepayer disallowance, and data-center contracts with key terms withheld from the public. [101,95,96,80]
Consumers Energy	\$1 million service and billing settlement, plus an administrative-law finding against its dam sale. [97,102]
METC/ITC	MPSC reprimand for engagement failures and route-modification reporting requirements. [61,64]
MISO	FERC opened a large-load tariff proceeding, while transmission-benefit and cost-shifting claims remain contested. [99,103]
Saline partners	Traffic fines are established; principal permitting and open-meetings disputes are not final findings. [98,104]

DTE and the Saline power deal

A federal judge found DTE liable for Clean Air Act violations at Zug Island's EES Coke Battery, entered a \$100 million judgment against DTE and three subsidiaries, ordered New Source Review applications, and required a \$20 million community air-quality fund. [101,95,105]

The judge said DTE controlled the facility, profited from delayed compliance, and nearby communities bore lasting health harms. [95]

DTE plans to appeal and says it operated within the original state permit's limits. [95]

The MPSC disallowed \$33,774,728 that DTE Electric sought from customers because the company did not support the costs as necessary or beneficial to electric customers. [96]

DTE's earlier assertion that its 2014 NEXUS transportation arrangement would produce savings was later contradicted by the Attorney General's statement that it had produced no savings and was unlikely to do so; the Attorney General said DTE Gas and DTE Electric overcharged customers by more than \$80 million through the end of the 2022 fiscal period. [106]

DTE requested ex parte approval without formal hearings for Saline contracts, and the public contracts were significantly redacted. [107,78]

The Attorney General said the redactions made DTE's affordability claims, the conditions, and enforcement mechanisms impossible to verify, and later appealed the approval seeking a contested case. [80,79]

DTE said it supplied a rate-case comment template to supplier-council members at their request, but the MPSC said it was disappointing that purported public comments had been authored by the utility while its application was pending. [108]

Consumers Energy, METC, and MISO

Consumers Energy agreed to a \$1 million, settlement that it could not charge to customers after an MPSC investigation of malfunctioning meters, estimated-billing violations, and significant delays in new electric and gas service, and acknowledged the problems. [97]

An administrative-law judge found Consumers Energy's proposed sale of 13 dams inconsistent with the public interest, highly problematic, unreasonable and imprudent, and potentially unsafe and not cheapest for ratepayers; an MPSC final decision was still expected as soon as September 2026. [102,109]

The MPSC reprimanded METC for inadequate public engagement on two earlier ITC projects and required it to consider minor landowner route changes and report monthly on requests and responses. [61,64]

METC says it takes those concerns seriously and will refine outreach, while owner-side condemnation lawyers report clients said right-of-way agents discouraged legal counsel and minimized easement rights. [64,110]

FERC opened a Federal Power Act proceeding after preliminarily finding MISO's tariff may be unjust and unreasonable for lacking tailored large-load service and protections against the risk of spending on facilities that customers may never use. [99,88]

Five state commissions and MISO's market monitor have challenged Tranche 2.1 benefit modeling, while MISO says the portfolio followed more than 300 stakeholder meetings and supports reliability and future needs; these are disputed positions, not final findings. [90,111,112]

Saline Township partners and hosts

Saline Township imposed \$6,500 in fines on Related Digital for back-road construction-traffic violations in March through May 2026, and reporting said the developer had been fined nine times. [98]

The developer and landowners sued after the township denied changes to zoning, and a court-ordered settlement set truck-traffic rules. [113,98]

A judge found that video showed the township's consent-agreement vote occurred in an open meeting, despite minutes suggesting closed session, so the principal Open Meetings allegation was contradicted on that point. [104]

The wastewater matter remains a draft permit and comment process; the state notice says the proposed discharge would increase some pollutant loading and lower Saline River water quality for some parameters without exceeding applicable standards. [100]

Lobbying and political spending

What the spending record shows

Michigan’s two largest electric utilities were active around the state policies that enabled data-center growth, and their political spending reached both parties and the legislative committees relevant to energy policy. Michigan Secretary of State campaign-finance filings, as summarized by Michigan LCV, show that DTE and Consumers gave lawmakers more than \$250,000 in the first half of 2025; 26 of 30 members of the two Energy Committees received utility contributions, and more than half of all 148 lawmakers received utility money during 2025. [114]

Independent reporting says both utilities lobbied Michigan lawmakers for the 2024 tax breaks credited with attracting the data-center megaprojects. [115] That is the clearest documented link here between utility political activity and the state policy environment for these projects; we found no project-specific lobbying or spending campaign by MISO, METC, or the Saline partners.

CHANNEL	DOCUMENTED ACTIVITY	DISCLOSURE OR REPORTING SOURCE
Direct political giving	DTE and Consumers PACs reported more than \$1.97 million in career contributions to current state elected officials. [116]	PAC reports, summarized by Energy and Policy Institute. [116]
Caucus giving	DTE gave \$10,000 checks to Republican and Democratic caucuses in both legislative chambers during the first two quarters of 2025, in addition to direct lawmaker contributions. [114]	Michigan Secretary of State campaign-finance filings, summarized by Michigan LCV. [114]
Dark-money affiliates	Michigan LCV identifies DTE-linked Michigan Energy First and Consumers-linked Citizens for Energizing Michigan’s Economy as nonprofits included in its political-spending scorecard. [117]	Michigan LCV scorecard. [117]
Utility disclosure	The Michigan Public Service Commission required DTE to file annual prior-year corporate nonprofit contributions above \$5,000, including to 501(c)(4) groups. [118]	Michigan Public Service Commission requirement, reported by Energy and Policy Institute. [118]

Michigan Energy First contributed \$50,000 to Protect MI Free Speech, a committee opposing a ballot proposal that would prohibit political contributions by regulated utilities and large government contractors; CMS Energy contributed a cumulative \$65,000 to that committee. [119] The reported source for the first contribution is a July 27 campaign-finance disclosure. [119]

The proposal was slated for the November 3, 2026 ballot, though opponents sought to block it and the Legislature could enact it first. [120] Its proposed rules would also require 501(c)(4) nonprofits, including the DTE-linked and Consumers-affiliated groups, to disclose pre-election advertising spending. [116]

For host communities, the documented local political reaction is narrow but material: a Saline Township resident launched a recall effort against three township board members amid data-center opposition. [121] The facility was reported as expected to create 2,500 union construction jobs, 450 permanent on-site jobs, and 1,500 additional community jobs. [72] These are reported expectations, not realized outcomes. [72]

ITC publicly advocates policy advancing U.S. energy infrastructure, endorsed the SPEED Act as permitting reform, and created a federal-affairs role to lead engagement with federal policymakers and agencies. [122,123] An aggregation citing FEC data reports ITC PAC giving of \$132,000 in the 2024 cycle, while the

same aggregation reports \$2.1 million in federal lobbying disclosures across 2023 and 2024. [124]

Environmental harm

What the spending record shows

The immediate, documented risks are not abstract: Saline Township's data-center permits authorize wetland and stream work, diesel backup equipment, and a wastewater discharge that state notices say would increase pollutant loading and lower Saline River water quality for some parameters, although the notice says applicable standards would not be exceeded. [125,100] For transmission, the Michigan Public Service Commission has found environmental impairment in METC projects but approved routes after finding no feasible and prudent alternative; its selected alternatives used existing rights of way and affected fewer wetlands and water-saturated soils. [65,64] We found few completed, adjudicated violations by ITC, METC, MISO, or the Saline developers; most documented effects are authorized impacts, disputed siting effects, and permit-review outcomes. [126,125,127]

Saline Stargate: water, wetlands, air, and local consent

EGLE's January 2026 wetlands permit allowed the developer to temporarily disturb a stream, install a culvert, and construct three stormwater structures discharging to the Saline River, Bridgewater Drain, and an unnamed stream. [125] The permit requires acquisition of 13.68 acres of wetlands in the River Raisin Watershed to mitigate loss of 9.12 acres at the site. [125] EGLE's January 2026 air permit allowed 14 diesel backup generators and one diesel pump supplying water for firefighting for fire emergencies. [125]

A proposed wastewater permit for RD Michigan Property Owner I LLC would authorize treated sanitary-wastewater discharge to the Saline River, and EGLE's notice says it would increase pollutant loading and lower Saline River water quality for some pollutants, without exceeding water-quality standards. [100,121] The Water Resources Division proposed to accept an antidegradation demonstration that the lower water quality is necessary for identified social and economic development. [100] Related Digital says the campus uses closed-loop air cooling rather than water-intensive evaporative cooling, would use water comparable to a standard office building, and will preserve more than 750 acres of open space, farmland, and wetlands. [128,129]

Those developer statements coexist with the permitted wetland loss and the proposed treated-wastewater discharge. [125,100] Saline Township initially rejected changes to zoning, then settled litigation by landowners and Related Digital; the agreement included about \$14 million in benefits, water and noise restrictions, farmland preservation, and limits on expansion. [80,72] The MPSC approval process denied ratepayer, environmental, and other groups the opportunity to file testimony in a contested case. [80]

Transmission, habitat, forests, and landowners

ITC Michigan says new transmission construction requires a cleared 200-foot corridor for steel monopoles on concrete foundations. [60] A landowner reported that a proposed ITC route crossed a roughly 25-acre marsh with wildlife including the threatened eastern massasauga rattlesnake, while ITC says it considers

known threatened-and-endangered-species habitat and coordinates with federal wildlife officials before construction. [60] ITC also says it works transparently and fairly with landowners and restores land after construction. [60]

Owner-side condemnation lawyers say METC tower excavations disturb soil and reduce agricultural yields, and allege METC options allow construction use outside easement areas without compensation, with risks of compaction, soil mixing, and crop loss. [59,110] A Michigan Court of Appeals panel affirmed dismissal of a challenge to METC's Midland County line after concluding the challenger had not shown significant environmental harm. [126] MISO approved the Cardinal-Hickory Creek project alongside state regulators, while conservation groups said its final miles would harm a sensitive portion of the Upper Mississippi River refuge; a district-court work pause was later overturned on appeal. [130,131]

Utility operations and review findings

A Michigan administrative-law judge found Consumers Energy's proposed sale of 13 dams inconsistent with the public interest, highly problematic, unreasonable, and imprudent, citing public-safety and potential ratepayer concerns. [102] Reporting on the proceeding says the dams block fish habitat, warm water, deplete oxygen, and trap sediment, and all but one is classified high-hazard. [102] DTE's Zug Island Clean Air Act judgment is addressed in the track-record section. [95]

Officials reviewing projects should require project-specific, enforceable conditions on wetland mitigation, discharge monitoring, diesel-generator operations, habitat avoidance, land restoration, complaint response, and who bears added generation and grid costs before approvals become irreversible. [125,100,65,81]

Gas and on-site power for data centers

New lines do not guarantee cleaner power

Michigan's two largest investor-owned utilities filed 20-year plans seeking roughly \$10 billion in new gas-burning plants, including 2.1 GW proposed by DTE and 1.375 GW proposed by Consumers. [115]

DTE proposes a 700-MW, \$2.5-billion Milan Township plant and a 1,400-MW, \$3.9-billion Handy Township plant, both described as carbon-capture ready. [81] Consumers proposes a 456-MW, \$1.2-billion plant near Bay City and a 919-MW, \$2.4-billion plant in Thetford Township. [115] These are proposals requiring Michigan Public Service Commission action, not operating plants. [132]

DTE and Consumers deny that the proposed plants mainly serve new Michigan data centers. [115] DTE nevertheless says each additional 1-GW data center could require a new gas plant, while Consumers said its prospective gas-investment choices depend on its data-center pipeline. [133,134]

DTE plans to retire 1,535 MW at Monroe in 2028 and projects carbon capture at its proposed Livingston and Monroe County combined-cycle plants in 2035. [135] Carbon-capture readiness and a 2035 planned service date are not evidence that capture will operate during earlier years; Earthjustice says capture does not fully address gas-plant emissions or toxic pollutants. [81,132]

Saline: approved supply, but local pollution and cost questions remain

The Commission approved DTE's special contracts to serve the 1.4-GW Saline Township Stargate data center in December 2025, subject to conditions. [136,76] DTE and Related Digital say the project will use existing resources, augmented by project-financed battery storage, and will not require additional generation. [128,137]

That assertion applies to Saline, not to subsequent large loads, and DTE's earlier public statement distinguished later data centers that could require new gas plants. [80] The approved arrangement requires emergency procedures under which Saline load is cut before other customers' load in a grid emergency. [76]

EGLE permitted 14 diesel backup generators and one diesel pump supplying water for firefighting in January 2026, after issuing an October 2025 construction waiver. [125] The facility is expected to emit 34.86 tons per year of nitrogen oxides, its largest air-pollution source. [125] Residents and local opponents raised concerns over diesel air pollution, water, wetlands, traffic, noise, wildlife, reliability, and rates; Washtenaw County backed municipalities considering temporary data-center moratoriums. [70,72]

The Commission's expedited approval did not permit ratepayer, environmental, and other groups to file contested-case testimony on impacts. [80] Ratepayer advocates warned that higher demand could run older, less-efficient units more often and raise residential generation costs. [76] DTE's current plan leaves who pays for \$6.443 billion in proposed new plants unclear, according to Earthjustice. [132]

Grid and pipeline implications

MISO's chief executive says it is receiving multi-GW data-center proposals seeking completion within two to three years, and FERC directed MISO to explain how adequate generation will serve existing and new large loads. [138,88] MISO's 2025 emergency fast-track proposal was limited to gas plants; FERC rejected that first version. [139]

We found no Michigan transmission project that shows that added transmission will replace fossil generation rather than enable new load and generation. MISO's ERAS Cycle 3 selected 8.8 GW, including 6.4 GW of gas and 2.3 GW of utility-procured battery storage. [140]

For host communities and ratepayers, the practical conditions to press are binding allocation of generation, transmission, backup-generator, decommissioning, and stranded-cost risks to the large-load customer, plus enforceable clean-power and curtailment terms. The current Michigan large-load tariff does not require a specified renewable-energy amount, and clean-energy issues were deferred to future proceedings. [86]

New lines, new loads: Oneida–Sabine Lake and Mason

What Consumers and ITC tell investors describes their business incentives. It also suggests how grid access could attract new demand, without proving that any specific line caused a data center to locate nearby.

- **Load is capital.** Consumers' parent told investors that "for every 1 gigawatt of new large load, we could see capital opportunity of \$2 billion to \$5 billion," on top of its current plan [26]. Its data-center large-load pipeline, mostly data centers, is "roughly about 9 gigawatts" and "actually much larger." It says it is in ad-

vanced negotiation with "at least two hyperscalers," meaning operators of very large computing campuses, which are pursuing "multiple properties in multiple areas of the state" [26].

- **The utility works the local process.** Consumers' chief executive said the company is "standing side by side" with data-center developers meeting local commissions [26]. He also said Consumers has helped steer data centers to communities that are more "accommodating" to growth [30].
- **New load needs more capacity.** Consumers' chief executive said none of its large-load pipeline is in its approved resource plans, which leaves "a gap in capacity" [29]. Consumers says the two gas plants in its 2026 plan mainly replace retiring peakers [26,28], so data-center load would come on top of them.
- **The transmission owner steers load to where the grid has room.** An ITC executive said ITC has "approximately 8 gigawatts of additional load in our queue" and is "working hard to direct them to places where we need fewer upgrades," because data centers want power within two years and "a new line would take much more than that" [27]. A new 345 kV line could make some locations easier to serve. That is our inference; proximity to a line alone does not establish available capacity or access. ITC expects \$3.3 billion to \$3.8 billion of Tranche 2.1 investment after 2030 on projects "not subject to competitive bidding" [27].



Figure 3: ITC's seven preliminary Oneida–Sabine Lake route options and the proposed Mason data-center site

Oneida–Sabine Lake. ITC plans a 50-mile, 345 kV line from its Oneida substation in Eaton County to a new Sabine Lake substation in Livingston County, on a 200-foot right-of-way [31,33]. MISO approved it in December 2024 as part of the Tranche 2.1 regional plan [32,33]. This was a planning decision, not approval of its route or authorization to construct the line; the Michigan construction certificate is a separate process [33]. A MISO planning document puts its cost at about \$600 million. As a regional project, its cost is shared across MISO's Midwest states [32,33]. MITechNews reports that MISO found the line is needed in part to support long-term demand growth and to accommodate changes in generation, including large industrial loads [32]. ITC unveiled route options in December 2025 and expects to file under Michigan's Act 30 late in 2026 or in 2027 [31,32]. ITC says it began planning before data centers showed interest in Michigan [31].

Mason. Mason's city manager says the city expected a data-center utility request as early as October 2025 [39]. On February 11, 2026, a lawyer for an unnamed client told the City of Mason in Ingham County that the client was "evaluating sites for a potential hyperscale data center development within or near the City of Mason," drawing primary power from Consumers' grid [34]. The site is more than 400 acres of farmland at 3388 West Columbia Road in Vevay Township [35,38]. The city manager says the developer will commit to at least \$1 billion of investment [37]. After residents forced a referendum on the city's new data-center zoning, the council repealed it and sought a land-transfer and utility agreement with Vevay Township, which the city's referendum power does not reach [35]. Vevay Township declined to negotiate, the landowners petitioned for annexation to Mason, and the State Boundary Commission takes up the request on October 7 [38]. The developer has not disclosed the load. As of June, Consumers had not filed the separate cost case the MPSC requires for each large customer, so who pays for the grid work is not settled [36].

WHAT IS AND IS NOT ESTABLISHED

The dates run in this order: MISO approval (December 2024), the city's expectation of a data-center request (October 2025), ITC's route options through Ingham County (December 2025), and the developer's letter (February 2026). They do not show that the developer chose Mason because of the line, that the site sits on ITC's final route, which is not chosen, or how much load it would add. ITC's stated practice suggests a possible mechanism: grid capacity could make nearby sites easier to serve. The chronology does not prove that mechanism operated at Mason. Any added demand could require new supply, but its amount and fuel remain unknown.

What this means for the bill

Conditions to settle before approval

The bill gives project sponsors more power in federal transmission, pipeline, and permitting disputes, while Michigan's MPSC, EGLE, and circuit-court processes remain the places where Michigan residents can still press project-specific route, rate, water, air, and local-condition issues. The practical response is to require public cost estimates, independent review, financial security, and enforceable land-restoration duties before approvals make changes harder. [85,100,71]

Landowners and host communities

For interstate transmission, the bill permits simultaneous FERC and state processing for lines of 345 kV or more, retains federal-permit eminent domain, shifts condemnation procedure to Federal Rule of Civil Procedure 71.1, and requires FERC to consider, rather than adopt, landowner input. It also makes specified capacity work in existing rights-of-way categorically excluded from an EA or EIS and not an NHPA undertaking (see Part I).

That reduces time and options for court challenges for owners facing federal-permit projects, particularly where a route is framed as an upgrade in an existing corridor. Michigan certificate approval already provides a route to easement acquisition through eminent domain with compensation. [60]

METC's Michigan experience shows why enforceable, parcel-specific terms matter before an approval. The MPSC reprimanded METC for inadequate public engagement on two prior ITC projects and required monthly reporting on minor route-change requests, landowner communications, and responses. [61,64,65]

The Commission also approved alternate routes that used existing rights-of-way and affected fewer wetlands and water-saturated soils, while finding that two southern Michigan projects would cause some environmental impairment but had no feasible and prudent alternative. [64,65]

Owner-side condemnation lawyers report that METC options left the eventual encumbered area to METC's discretion, allowed unannounced entry and uncompensated construction use outside the easement, and allowed property-wide access without payment. [63]

Consumers' reported easement terms on Old Mission Peninsula likewise allow vegetation work and access while restricting improvements such as septic systems, wells, pools, sheds, and outbuildings. [67]

For host communities, Title IV raises the federal government's potential liability for changing permits for covered projects with non-federal sponsors. An agency must prove one of five exceptions by clear and convincing evidence, and a losing agency can trigger reinstatement, injunctions, fees, delay costs, and partial reimbursement of incurred project costs (see Part I).

That protection does not displace Michigan zoning, MPSC, EGLE, or circuit-court proceedings, but it raises the importance of resolving conditions before federal permits issue. Saline Township initially denied changes to zoning for 575 acres, then settled litigation brought by Related Digital and landowners; the court-approved agreement allowed the project, provided about \$14 million in benefits, and imposed water, noise, farmland-preservation, expansion, and truck-traffic terms. [69,71,72,98]

Local enforcement still matters: Saline Township fined Related Digital nine times and assessed \$6,500 for back-road construction-traffic violations during March through May 2026. [98]

Ratepayers and MISO

FPA 228 would prohibit shifting a covered load's incremental cost to other customers, require financial assurance before facilities are built, and allow states to impose stronger terms, but it relies on utility cost estimates made at or around the time the load becomes operational and preserves state or Commission-approved arrangements that predate enactment (see Part I).

That leaves two central safeguards dependent on utility inputs: the incremental-cost estimate and the enforceability of the financial-security and exit-risk package. The grandfather clause is especially important to Saline because the MPSC approved DTE's special contracts in December 2025. [73]

The MPSC conditioned that approval on DTE representing that Green Chile Ventures' payments cover generation, transmission, distribution, and other service costs, tracking service costs, and placing DTE at risk for costs the customer does not pay; DTE also accepted a curtailment condition that cuts the data center before other customers in an emergency. [74,76,77]

Those protections were approved ex parte, the public contracts were significantly redacted, and the Attorney General appealed seeking a contested case to examine the contracts, affordability, collateral, and exit fees. [76,78,79,83]

Consumers' Michigan tariff requires a separate approval for each covered new customer: each large-load customer requires a separate ex parte case demonstrating that other customer classes do not subsidize its costs, and Consumers must show that the load pays transmission, substation, and other infrastructure costs

before interconnection. [85,87]

At MISO, FERC opened a section 206 proceeding and ordered MISO and transmission owners to show why the tariff should not be found unjust and unreasonable for failing to mitigate large-load cost shifting. [88,99]

FERC specifically identified public network-upgrade cost information and a standard cost-recovery agreement placing costs and risks on the large-load customer as measures needed to address that risk. [88,103]

Outstanding legal questions

1. Which Michigan owner protections survive a Rule 71.1 condemnation under a federal permit?
2. Can Michigan require public, independently audited incremental-cost studies and collateral before recognizing any FPA 228 arrangement?
3. Does FPA 228 grandfather the Saline contracts while the appellate challenge remains unresolved?
4. Which Saline settlement, EGLE permit, and MPSC conditions remain enforceable if federal approvals later change?
5. What state-law tools can require parcel-specific easement limits, restoration security, and compensation for off-easement construction use?

Terms used in the briefing

TERM	MEANING IN THIS BRIEFING
kV; MW; GW	Kilovolts measure line voltage. Megawatts measure power. A gigawatt is 1,000 megawatts. Voltage and demand are different quantities.
FPA; LNG	Federal Power Act; liquefied natural gas.
NEPA; EIS	National Environmental Policy Act, which governs federal environmental review; environmental impact statement, the detailed review document.
NHPA; ESA	National Historic Preservation Act; Endangered Species Act.
RTO; ERCOT	Regional transmission organization, a regional grid operator; Electric Reliability Council of Texas, the operator of most of the Texas grid.
EIA; CEQ; EPA	Energy Information Administration; Council on Environmental Quality; Environmental Protection Agency.
BLM	Bureau of Land Management.
Incremental cost	The extra cost caused by serving a new customer or project.
Interconnection	Connecting a power source or customer to the grid.
Behind the meter	Equipment on the customer's side of the utility meter.
Ex parte approval	Approval without a contested hearing where opposing parties can test evidence.
Easement; right-of-way	A right to use another person's land; the corridor where infrastructure runs.
Stranded cost	Spending that cannot be recovered as planned, for example if a promised customer leaves.

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About Bommarito Consulting

Bommarito Consulting was founded in 2011. Its work draws on published research, practical data and technology development, and recognized professional credentials. Every engagement is led by a principal, not delegated to junior staff.

We provide expert research and consulting to help residents, townships, and their counsel respond to proposed infrastructure. We turn legislation, utility filings, and public data into analysis, maps, and measurements they can use and check.



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