AN ACT

To clarify that compliance with an emergency order under section 202(c) of the Federal Power Act may not be considered a violation of any Federal, State, or local environmental law or regulation, and for other purposes.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Resolving Environmental and Grid Reliability Conflicts Act of 2012”.

SEC. 2. AMENDMENTS TO THE FEDERAL POWER ACT.

(a) COMPLIANCE WITH OR VIOLATION OF ENVIRONMENTAL LAWS WHILE UNDER EMERGENCY ORDER.—

Section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following:

“(2) With respect to an order issued under this subsection that may result in a conflict with a requirement of any Federal, State, or local environmental law or regulation, the Commission shall ensure that such order requires generation, delivery, interchange, or transmission of electric energy only during hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable, is consistent with any applicable Federal, State, or local environmental law or regulation and minimizes any adverse environmental impacts.

“(3) To the extent any omission or action taken by a party, that is necessary to comply with an order issued under this subsection, including any omission or action taken to voluntarily comply with such order, results in noncompliance with, or causes such party to not comply with, any Federal, State, or local environmental law or regulation...
regulation, such omission or action shall not be considered
a violation of such environmental law or regulation, or
subject such party to any requirement, civil or criminal
liability, or a citizen suit under such environmental law
or regulation.

“(4)(A) An order issued under this subsection that
may result in a conflict with a requirement of any Federal,
State, or local environmental law or regulation shall expire
not later than 90 days after it is issued. The Commission
may renew or reissue such order pursuant to paragraphs
(1) and (2) for subsequent periods, not to exceed 90 days
for each period, as the Commission determines necessary
to meet the emergency and serve the public interest.

“(B) In renewing or reissuing an order under sub-
paragraph (A), the Commission shall consult with the pri-
mary Federal agency with expertise in the environmental
interest protected by such law or regulation, and shall in-
clude in any such renewed or reissued order such condi-
tions as such Federal agency determines necessary to min-
imize any adverse environmental impacts to the maximum
extent practicable. The conditions, if any, submitted by
such Federal agency shall be made available to the public.
The Commission may exclude such a condition from the
renewed or reissued order if it determines that such condi-
tion would prevent the order from adequately addressing
the emergency necessitating such order and provides in
the order, or otherwise makes publicly available, an expla-
nation of such determination.”.

(b) TEMPORARY CONNECTION OR CONSTRUCTION BY
MUNICIPALITIES.—Section 202(d) of the Federal Power
Act (16 U.S.C. 824a(d)) is amended by inserting “or mu-
nicipality” before “engaged in the transmission or sale of
electric energy”.

Passed the House of Representatives August 1, 2012.

Attest:

Clerk.
H. R. 4273

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