

Union Calendar No. 425

112TH CONGRESS
2^D SESSION

H. R. 4273

[Report No. 112-586]

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2012

Mr. OLSON (for himself, Mr. DOYLE, Mr. TERRY, Mr. GENE GREEN of Texas, Mr. KINZINGER of Illinois, and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce

JULY 9, 2012

Additional sponsors: Mr. BARTON of Texas, Mr. COSTELLO, Mr. OWENS, Mr. LATTA, Mr. LONG, Mr. SULLIVAN, Mr. CANSECO, Mr. LANKFORD, Mr. BARROW, Mr. WHITFIELD, Mr. POMPEO, Mr. GINGREY of Georgia, and Mr. MURPHY of Pennsylvania

JULY 9, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italics]

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Resolving Environ-
5 mental and Grid Reliability Conflicts Act of 2012”.

6 **SEC. 2. AMENDMENTS TO THE FEDERAL POWER ACT.**

7 (a) COMPLIANCE WITH OR VIOLATION OF ENVIRON-
8 MENTAL LAWS WHILE UNDER EMERGENCY ORDER.—
9 Section 202(e) of the Federal Power Act (16 U.S.C.
10 824a(e)) is amended—

11 (1) by inserting “(1)” after “(e)”; and

12 (2) by adding at the end the following: “An
13 order issued under this section should require gen-
14 eration, delivery, interchange, or transmission of
15 electric energy only during times necessary to meet
16 the emergency and serve the public interest, and, to
17 the extent reasonable, be consistent with any other
18 applicable Federal law, including any environmental
19 law or regulation, and endeavor to minimize any ad-
20 verse environmental impacts.

21 “(2)(A) To the extent any omission or action taken
22 by a party, which is necessary to comply with an order
23 issued under paragraph (1), including any omission or ac-
24 tion taken to voluntarily comply with such order, results
25 in noncompliance with, or causes such party to not comply

1 with, any Federal, State, or local environmental law or
 2 regulation, such omission or action shall not be considered
 3 a violation of such environmental law or regulation, or
 4 subject such party to any requirement, civil or criminal
 5 liability, or a citizen suit under such environmental law
 6 or regulation.

7 “(B) In this paragraph, the term ‘environmental law’
 8 does not include the Occupational Safety and Health Act
 9 of 1970 (29 U.S.C. 651 et seq.).”

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

15 **SECTION 1. SHORT TITLE.**

16 *This Act may be cited as the “Resolving Environ-*
 17 *mental and Grid Reliability Conflicts Act of 2012”.*

18 **SEC. 2. AMENDMENTS TO THE FEDERAL POWER ACT.**

19 (a) COMPLIANCE WITH OR VIOLATION OF ENVIRON-
 20 MENTAL LAWS WHILE UNDER EMERGENCY ORDER.—Sec-
 21 tion 202(c) of the Federal Power Act (16 U.S.C. 824a(c))
 22 is amended—

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

24 (2) by adding at the end the following:

1 “(2) *With respect to an order issued under this sub-*
2 *section that may result in a conflict with a requirement*
3 *of any Federal, State, or local environmental law or regula-*
4 *tion, the Commission shall ensure that such order requires*
5 *generation, delivery, interchange, or transmission of electric*
6 *energy only during hours necessary to meet the emergency*
7 *and serve the public interest, and, to the maximum extent*
8 *practicable, is consistent with any applicable Federal,*
9 *State, or local environmental law or regulation and mini-*
10 *mizes any adverse environmental impacts.*

11 “(3) *To the extent any omission or action taken by*
12 *a party, that is necessary to comply with an order issued*
13 *under this subsection, including any omission or action*
14 *taken to voluntarily comply with such order, results in non-*
15 *compliance with, or causes such party to not comply with,*
16 *any Federal, State, or local environmental law or regula-*
17 *tion, such omission or action shall not be considered a viola-*
18 *tion of such environmental law or regulation, or subject*
19 *such party to any requirement, civil or criminal liability,*
20 *or a citizen suit under such environmental law or regula-*
21 *tion.*

22 “(4)(A) *An order issued under this subsection that*
23 *may result in a conflict with a requirement of any Federal,*
24 *State, or local environmental law or regulation shall expire*
25 *not later than 90 days after it is issued. The Commission*

1 *may renew or reissue such order pursuant to paragraphs*
2 *(1) and (2) for subsequent periods, not to exceed 90 days*
3 *for each period, as the Commission determines necessary to*
4 *meet the emergency and serve the public interest.*

5 “(B) *In renewing or reissuing an order under sub-*
6 *paragraph (A), the Commission shall consult with the pri-*
7 *mary Federal agency with expertise in the environmental*
8 *interest protected by such law or regulation, and shall in-*
9 *clude in any such renewed or reissued order such conditions*
10 *as such Federal agency determines necessary to minimize*
11 *any adverse environmental impacts to the maximum extent*
12 *practicable. The conditions, if any, submitted by such Fed-*
13 *eral agency shall be made available to the public. The Com-*
14 *mission may exclude such a condition from the renewed or*
15 *reissued order if it determines that such condition would*
16 *prevent the order from adequately addressing the emergency*
17 *necessitating such order and provides in the order, or other-*
18 *wise makes publicly available, an explanation of such deter-*
19 *mination.”.*

20 (b) *TEMPORARY CONNECTION OR CONSTRUCTION BY*
21 *MUNICIPALITIES.—Section 202(d) of the Federal Power Act*
22 *(16 U.S.C. 824a(d)) is amended by inserting “or municipi-*
23 *pality” before “engaged in the transmission or sale of elec-*
24 *tric energy”.*

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