

119TH CONGRESS  
2D SESSION

# S. 4337

To prohibit the use of certain emergency authority to keep a fossil fuel-powered electric generating facility or fossil fuel power plant online, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 16 (legislative day, APRIL 14), 2026

Mr. MARKEY (for himself, Mr. WELCH, Mr. VAN HOLLEN, Mr. MERKLEY, and Ms. BLUNT ROCHESTER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To prohibit the use of certain emergency authority to keep a fossil fuel-powered electric generating facility or fossil fuel power plant online, 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 “No Big Fossil Bailouts  
5 on Your Power Bill Act”.

6 **SEC. 2. LIMITATIONS ON CERTAIN EMERGENCY AUTHOR-**  
7 **ITY UNDER THE FEDERAL POWER ACT.**

8 Section 202(c) of the Federal Power Act (16 U.S.C.  
9 824a(c)) is amended—

1 (1) in paragraph (1), in the first sentence—

2 (A) by striking “or other causes,”; and

3 (B) by striking “with or without notice,  
4 hearing, or report,”;

5 (2) in paragraph (2), by adding at the end the  
6 following: “Before issuing such an order, the Com-  
7 mission, to the maximum extent practicable, shall  
8 consider alternatives to meet the emergency, includ-  
9 ing alternatives that both meet the emergency and  
10 minimize adverse environmental impacts.”;

11 (3) in paragraph (4)—

12 (A) in subparagraph (A), in the first sen-  
13 tence, by striking “that may result in a conflict  
14 with a requirement of any Federal, State, or  
15 local environmental law or regulation”;

16 (B) in subparagraph (B), in the first sen-  
17 tence—

18 (i) by inserting “advance of” before  
19 “renewing or reissuing”;

20 (ii) by striking “shall consult with  
21 the” and inserting the following: “shall—

22 “(i) hold a hearing open to the public on the  
23 proposed order;

24 “(ii) determine—

1 “(I) whether and the extent to which the  
2 order will raise rates for ratepayers; and

3 “(II) whether the order may result in a  
4 conflict with a requirement of any Federal,  
5 State, or local environmental law or regulation;  
6 and

7 “(iii) to accomplish the duties and comply with  
8 the requirements described in paragraph (2) and  
9 clause (ii), consult with—

10 “(I) the relevant State and local agencies  
11 or regulators, including the relevant State com-  
12 mission (collectively referred to in this para-  
13 graph as the ‘relevant non-Federal agencies’),  
14 in—

15 “(aa) each State and locality in which  
16 the applicable facility is physically located;  
17 and

18 “(bb) each State and locality in which  
19 the order may result in a conflict described  
20 in clause (ii)(II); and

21 “(II) the”; and

22 (iii) in clause (iii)(II) (as so des-  
23 ignated), in the first sentence, by striking  
24 “such law or regulation, and shall” and in-  
25 serting the following: “each environmental

1 law or regulation with respect to which the  
 2 order may result in a conflict described in  
 3 clause (ii)(II).

4 “(C) The Commission shall”;

5 (C) in subparagraph (C) (as so des-  
 6 ignated)—

7 (i) in the first sentence—

8 (I) by striking “such Federal  
 9 agency determines” and inserting “1  
 10 or more Federal or relevant non-Fed-  
 11 eral agencies consulted under sub-  
 12 paragraph (B)(iii) determine”; and

13 (II) by inserting “rate or” after  
 14 “adverse”; and

15 (ii) in the second sentence—

16 (I) by striking “The conditions”  
 17 and inserting “The cost estimates and  
 18 conditions”; and

19 (II) by striking “such Federal  
 20 agency” and inserting “any 1 or more  
 21 Federal or relevant non-Federal agen-  
 22 cies”; and

23 (D) by adding at the end the following:

24 “(D) An order issued under this subsection shall be  
 25 considered to be a renewed or reissued order subject to

1 the requirements of this paragraph and all other require-  
2 ments relating to a renewed or reissued order if the order  
3 relates to the same facility and a substantially similar  
4 emergency as a previous order issued under this sub-  
5 section.”; and

6 (4) by adding at the end the following:

7 “(6)(A) Except as provided in subparagraph (B), the  
8 Commission may not issue an order under this subsection  
9 that would—

10 “(i) prevent or delay the retirement or other  
11 permanent closure of a facility for the generation of  
12 electric energy; or

13 “(ii) require the generation of electric energy at  
14 a facility that has retired or otherwise permanently  
15 closed.

16 “(B) Subparagraph (A) shall not apply to a par-  
17 ticular facility if—

18 “(i) an emergency exists that cannot be met in  
19 any manner other than delay of the retirement or  
20 other permanent closure of the facility; and

21 “(ii) the applicable Transmission Organization  
22 requests in writing to delay the retirement or other  
23 permanent closure of the facility.

24 “(7)(A) Before issuing an order under paragraph (1),  
25 the Commission shall—

1           “(i) create a public online docket for matters  
2           pertaining to the order; and

3           “(ii) publish on a publicly available website—

4                 “(I) notice of the proposed order, including  
5                 a link to the docket created under clause (i);  
6                 and

7                 “(II) any request submitted pursuant to  
8                 paragraph (6)(B)(ii).

9           “(B) An order issued under paragraph (1) (including  
10          any renewed or reissued order under paragraph (4)) shall  
11          be—

12                 “(i) published on the publicly available docket  
13                 created under subparagraph (A)(ii); and

14                 “(ii) accompanied by a report that includes—

15                         “(I) an analysis of the causes of the emer-  
16                         gency;

17                         “(II) an analysis of the alternatives consid-  
18                         ered to meet the emergency, including alter-  
19                         natives that both meet the emergency and mini-  
20                         mize adverse environmental impacts; and

21                         “(III) estimates of the additional electrical  
22                         system costs that are expected to be incurred by  
23                         any electric utility and any customers of an  
24                         electric utility as a result of the order, including

1           the costs of additional fuel, maintenance, cap-  
2           ital, or labor.

3           “(C) The Commission shall comply with subclauses  
4 (II) and (III) of subparagraph (B)(ii) to the maximum  
5 extent practicable, in light of the circumstances, in the  
6 case of an initial order issued under paragraph (1) to ad-  
7 dress a particular emergency, but shall fully comply with  
8 those subclauses with respect to any renewed or reissued  
9 order issued to address that emergency.

10          “(D) Not later than 60 days after the date on which  
11 an order is issued under paragraph (1), each electric util-  
12 ity that is, or expects to be, impacted by the order (includ-  
13 ing each electric utility identified by the Commission  
14 under subparagraph (B)(ii)(III)) shall provide to cus-  
15 tomers of the electric utility written notice that includes—

16           “(i) an identification of the order, including a  
17 link to, or instructions for accessing, the order as  
18 published under subparagraph (B)(i);

19           “(ii) a description of the impacts and expected  
20 impacts of the order, including any costs of addi-  
21 tional fuel, maintenance, capital, or labor that have  
22 occurred or are expected to occur as a result of the  
23 order; and

- 1           “(iii) any other information relevant to the elec-
- 2           tric utility or customers of the electric utility.”.

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