

RELIABLE POWER ACT

SEPTEMBER 17, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GUTHRIE, from the Committee on Energy and Commerce,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3616]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3616) to require the Federal Energy Regulatory Commission to review regulations that may affect the reliable operation of the bulk-power system, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Striking all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Reliable Power Act”.

SEC. 2. COMMISSION REVIEW AND COMMENT FOR COVERED AGENCY ACTIONS.

Section 215 of the Federal Power Act (16 U.S.C. 824a) is amended—

(1) in subsection (g)—

(A) by striking “The ERO” and inserting the following:

“(1) IN GENERAL.—The ERO”; and

(B) by adding at the end the following:

“(2) ANNUAL LONG-TERM ASSESSMENT.—The assessments under paragraph (1) shall include an annual long-term assessment, which shall include—

“(A) an analysis of the ability of the bulk-power system to supply sufficient electric energy necessary to maintain an adequate level of reliability, taking into account generation resource mix, transmission development, and electric energy demand trends;

“(B) an analysis of the risk of future electric energy supply shortfalls under normal and extreme weather conditions, and the risk of any such shortfalls within each region of the bulk-power system; and

“(C) a determination of whether additional generation resources are necessary to supply sufficient electric energy to maintain an adequate level of reliability during the assessment period.

“(3) NOTICE OF GENERATION INADEQUACY.—In conducting a long-term assessment under paragraph (2), if the ERO finds that the bulk-power system is at risk of not having adequate generation resources to supply sufficient electric energy to maintain an adequate level of reliability, the ERO shall publicly notify the Commission that the bulk-power system is in a state of generation inadequacy.

“(4) DATA COLLECTION.—To conduct a long-term assessment under paragraph (2), the ERO may collect information and data from users, owners, and operators of the bulk-power system.”;

(2) by redesignating subsections (h) through (k) as subsections (i) through (l), respectively; and

(3) by inserting after subsection (g) the following:

“(h) COMMISSION REVIEW AND COMMENT FOR COVERED AGENCY ACTIONS.—

“(1) NOTICE TO FEDERAL AGENCIES.—If the ERO notifies the Commission under subsection (g)(3) that the bulk-power system is in a state of generation inadequacy, the Commission shall promptly notify the Department of Energy, the Environmental Protection Agency, and any other Federal agency the Commission determines appropriate of such state of generation inadequacy.

“(2) SUBMISSION.—Upon receiving notice under paragraph (1), the head of each Federal agency that received such notice shall provide to the Commission for review and comment any covered agency action by the Federal agency—

“(A) on the first date on which such covered agency action is provided to the Office of Management and Budget or any other Federal agency for review and comment; or

“(B) if such covered agency action is not provided to the Office of Management and Budget or any other Federal agency for review and comment, not later than 90 days before the date on which the covered agency action is published in the Federal Register or is otherwise made available for public inspection or comment.

“(3) COMMISSION COMMENTS.—The Commission, in consultation with the ERO and transmission organizations, shall, by order, provide to the agency head that provided to the Commission a covered agency action under paragraph (2)—

“(A) comments on such covered agency action, which such comments may include an assessment of the effect of the covered agency action on rates, terms, and conditions for services pursuant to the authority of the Commission under sections 201 and 206; and

“(B) if applicable, recommendations for modifications to the covered agency action to prevent a significant negative impact on the ability of the bulk-power system to supply sufficient electric energy necessary to maintain an adequate level of reliability.

“(4) AGENCY RESPONSE.—The head of a Federal agency may not finalize a covered agency action that is provided to the Commission under paragraph (2) until—

“(A) the agency head responds in writing to the Commission with an explanation of how the agency head modified, or why the agency head deter-

mined not to modify, such covered agency action in response to any comments and recommendations provided by the Commission under paragraph (3); and

“(B) the Commission finds that the covered agency action will not be likely to have a significant negative impact on the ability of the bulk-power system to supply sufficient electric energy necessary to maintain an adequate level of reliability.

“(5) PUBLIC AVAILABILITY OF COMMENTS AND RESPONSES.—An agency head shall include any comments, recommendations, and responses for the covered agency action when—

“(A) submitting the covered agency action to the Federal Register for publication; or

“(B) otherwise making the covered agency action available for public inspection or comment.

“(6) DEFINITIONS.—In this subsection:

“(A) COVERED AGENCY ACTION.—The term ‘covered agency action’ means a regulation that—

“(i) relates to, or otherwise directly affects, any generation resource in the bulk-power system; and

“(ii) is under development to be proposed or otherwise under consideration in a rulemaking prior to finalization on the date on which the Federal agency receives notice from the Commission under paragraph (1).

“(B) FEDERAL AGENCY.—The term ‘Federal agency’ means an Executive department (as that term is defined in section 101 of title 5, United States Code) or any other Executive agency that is in the President’s cabinet.”.

PURPOSE AND SUMMARY

H.R. 3616, the Reliable Power Act, would amend the Federal Power Act to provide for the Federal Regulatory Commission (FERC) review of certain federal regulations that may affect the reliable operation of the bulk-power system.

The legislation would require the electric reliability organization (ERO) to conduct annual long-term reliability assessments of the bulk-power system. In the event the ERO determines during such assessments that the bulk-power system does not have sufficient electric generation to maintain reliability, FERC would review, provide comment, and as necessary recommend changes to modify federal regulations proposed or under development that affect generation resources in the bulk-power system. No regulation affecting such resources would be allowed to be finalized if FERC finds it would have a significant negative impact on the reliability of the bulk-power system.

BACKGROUND AND NEED FOR LEGISLATION

Reliable delivery of electric power is essential for all aspects of modern life, and especially, public health and welfare. The nation’s electric power grid is comprised of vast networks of high voltage transmission lines, generating resources, local distribution lines, and other critical infrastructure to ensure the delivery of adequate and reliable supplies of electricity. The backbone of the electric grid is the bulk-power system. This system includes the facilities and control systems necessary for operating the interconnected transmission network and the electric energy generation resources needed to maintain transmission system reliability.¹

FERC and the North American Electric Reliability Corporation (NERC), each have important statutory roles in monitoring and assuring reliability across the bulk power system. FERC oversees and

¹ The bulk-power system does not include the local distribution of electric power.

regulates the interstate transmission of natural gas, oil, and electricity through its authority under the Natural Gas Act and the Federal Power Act. Under section 215 of the Federal Power Act, NERC is the ERO certified to establish and enforce reliability standards for the bulk-power system, or BPS, subject to FERC review and approval.

The need for strengthened oversight of policies by FERC and NERC that impact reliability is increasing. The electric power system is undergoing an unprecedented period of transformation and uncertainty. This is driven by an accelerated rate of pre-mature retirements of traditional, baseload and dispatchable electric generation resources, without adequate replacement resources, coupled with substantial increases in the demand for more electric power. This demand is driven by rapid growth of data centers, artificial intelligence, domestic manufacturing, and general electrification. Absent sufficient new generation resources, the new demand is exacerbating existing and growing risks to the reliable delivery of power in large regions of the nation.

For the past decade, accelerated retirement of dispatchable generation resources, chiefly coal, natural gas, and nuclear, has been driven by state and federal policies that limit production from or increase environmental compliance costs of these traditional generation resources and, particularly in deregulated wholesale electricity markets, favor investment in intermittent solar and wind resources over traditional fossil generation resources.

The consequences of premature retirements have been magnified by the operating limitations of replacement generation—chiefly intermittent wind and solar—that do not have the same attributes or provide the same level of reliability as dispatchable resources. Existing state and federal policies continue to produce powerful economic incentives for retirements of baseload and dispatchable power and the related services to balance and maintain electric grid reliability.

“Accelerated retirements of the existing coal, natural gas, and nuclear generators can have a profound and negative effect on the resource adequacy and reliability of the BPS in the next 10 years,” according to the NERC’s December 2024 Long-Term Reliability Assessment.² The report states further: “Environmental regulations and energy policies have the potential to influence generators to seek deactivation during the 10-year assessment period. . . . The lack of dispatchable resources and diverse generator fuel types in the interconnection processes makes the future resource mix look alarmingly unreliable. The potential for capacity and energy shortfalls and a higher-risk resource mix is heightened by economic and policy factors that place pressure on existing thermal generators.”³

Analysis by the Department of Energy found that increased demand combined with retirements of dispatchable generation would increase the risk of power outages 100-fold by 2030. Even assuming no retirements, the increased risk of power outages in 2030 in-

²North American Reliability Corp. (NERC), *2024 Long-Term Reliability Assessment* (Dec. 2024, updated Jul. 15, 2025), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_Long%20Term%20Reliability%20Assessment_2024.pdf.

³*Id.*

creased by a factor of 34 over current risks, underscoring the current reliability crisis.⁴

The Committee held multiple hearings during the 118th and 119th Congress on electric reliability and, through these hearings and testimony, the Committee has heard from utilities, states, grid operators, and FERC Commissioners that there is an increasing threat to grid reliability that could lead to extensive, system-wide outages.

Increasingly, grid operators have warned of the potential for electricity disruptions and asked their customers to conserve power.⁵ PJM, the nation’s largest grid operator, has warned that it could see a capacity shortage as early as 2026/2027 and identified public policies, permitting constraints, and supply chain challenges as key trends that are tightening supply-demand balance within the system.⁶ PJM CEO, Manu Asthana also stated, “PJM needs to slow down the pace of generation retirements to avoid reliability problems by the end of the decade.”⁷ In Committee hearings during the 119th Congress, grid operators continued to identify premature retirements of generation resources as a risk to reliability.

Over the past decade, federal regulatory initiatives, particularly by the Environmental Protection Agency (EPA), have contributed to or threatened to contribute to the premature retirement of baseload and dispatchable generation resources. In large part, these regulatory initiatives reflected policies to transition the nation’s electric system away from fossil based electric generation.

The most notable example of these regulatory initiatives is the EPA’s promulgation during the Biden Administration of greenhouse gas standards for fossil-fuel fired power plants.⁸ Twenty-seven states filed legal challenges to the rule in the D.C. Circuit Court of Appeals in September 2024.⁹ An amicus brief filed by four grid operators requested the court remand the final rule back to EPA “with instructions for it to adequately consider the . . . grid adequacy issues [grid operators] previously raised,” noting the rules would trigger an acceleration in the pace of premature retire-

⁴U.S. DEP’T OF ENERGY, *Evaluating the Reliability and Security of the United States Electric Grid* (Resource Adequacy Report), at 1 (Jul. 2025), https://www.energy.gov/sites/default/files/2025-07/DOE%20Final%20EO%20Report%20%28FINAL%20JULY%207%29_0.pdf.

⁵News Release, ELECTRIC RELIABILITY COUNCIL OF TEXAS, INC. (ERCOT), *ERCOT Has Initiated Energy Emergency Alert Level 2 (EEA 2), Conservation is Critical* (Sept. 6, 2023), <https://www.ercot.com/news/release/2023-09-06-ercot-has-initiated>.

⁶Letter from Mark Takahashi, Chair, Board of Managers, PJM Interconnection to PJM Stakeholders (Dec. 9, 2024), <https://www.pjm.com/-/media/DotCom/about-pjm/who-we-are/public-disclosures/2024/20241209-board-letter-outlining-action-on-capacity-market-adjustments-rri-and-sis.pdf>.

⁷Rich Heidorn, Jr., *PJM Chief: Retirements Need to Slow Down*, RTO INSIDER, (Mar. 27, 2023), <https://www.rtoinsider.com/31899-pjm-chief-retirements-need-to-slow-down/>.

⁸U.S. ENV’T. PROT. AGENCY (EPA) Final Rule, *New Source Performance Standards from Greenhouse Gas Emissions From New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units, etc.*, 89 Fed. Reg. 39798 (May 9, 2024) (where EPA’s greenhouse gas rules were part of a larger, comprehensive suite of regulatory actions for power plants. EPA Administrator Regan announced this suite of actions, known as the EGU (for “electric generating unit”) strategy, to address climate, health, and environmental burdens from power plants; and where these regulatory actions include the Interstate Transport Rule, Regional Haze, Risk and Technology Review for the Mercury Air Toxics Rule, effluent limitations, and a legacy coal combustion residue rule; and where these rules are impacting operations of existing baseload generation in the bulk power system, compelling, in many instances, retirements of generating sources earlier than had been planned).

⁹*State of West Virginia, et al. v. EPA*, No. 24–1120, (D.C. Cir. 2024).

ments of resources “that can have significant, negative consequences on reliability.”¹⁰

Although Congress, under the Federal Power Act, provided FERC responsibility for assuring reliability of the bulk-power system, EPA was under no legal obligation to address adequately the electric reliability risk created by its rules. This legislation establishes a statutory mechanism to provide accountability for and to align federal agency actions with the surpassing importance of ensuring electric power reliability.

The legislation builds upon existing authorities, which provide FERC and NERC responsibility to examine reliability of the bulk-power system and to identify actions that ensure reliable operation of the grid. It requires a long-term reliability assessment of the bulk power system by NERC, which is the ERO, and to include in that assessment determination whether more generation resources are necessary to maintain an adequate level of reliability. The assessment requirements reflect the existing objective criteria used by NERC to ensure there is sufficient energy to maintain an adequate level of reliability under a range of circumstances. It directs NERC to take into account transmission development, the mix of generation resources, and energy demand trends.

If NERC finds the bulk power system is at risk of not having adequate generation resources to supply sufficient energy to maintain an adequate level of reliability during the assessment period, it must notify FERC that the system is in a state of generation inadequacy. Upon such notification, FERC notifies DOE and EPA and any agency it determines appropriate of the state of generation inadequacy. Upon such notice, the notified agency sends any rules under development that impact generation resources to FERC for review and comment, and any recommendations necessary to prevent significant impacts on the ability of the grid to supply sufficient energy to maintain an adequate level of reliability.

Given the engineering and analytical capacity necessary to assess reliability adequately, the Committee expects that FERC will consult with grid operators and NERC and its subsidiaries, which have expertise, information, and modeling tools to assist with assessments. The Committee also expects that FERC will also consider impacts of proposed rules on rates, terms, and conditions of service, pursuant to its authority under the Federal Power Act, in its assessments under this legislation.

To ensure rules are crafted to avoid significant reliability impacts, the legislation provides that no rule that affects generation resources can be finalized if FERC determines the rule would have a significant negative impact on the ability of the grid to supply sufficient energy to maintain an adequate level of reliability. It is expected this will provide for future regulatory actions that balance the needs for regulatory action with the public interest needs for affordable, reliable delivery of electric power.

The Committee finds this legislation is necessary to provide accountability for federal rules that affect generation resources, and to provide a mechanism for adjusting any such rules to ensure they do not significantly impact electric power reliability.

¹⁰ Brief of Midcontinent Independent System Operator, Inc., PJM Interconnection L.L.C., Southwest Power Pool, Inc., and Electric Reliability Council of Texas, Inc. *as Amici Curiae* in Support of Petitioners, *State of West Virginia, et al. v. EPA*, No. 24–1120, (D.C. Cir. 2024).

COMMITTEE ACTION

On April 30, 2025, the Subcommittee on Energy held a legislative hearing on 14 pieces of legislative, including H.R. 3616. The Subcommittee received testimony from:

- Mike Goff, Acting Undersecretary of Energy, U.S. Department of Energy;
- David L. Morenoff, Acting General Counsel, Federal Energy Regulatory Commission;
- Terry Turpin, Director, Office of Energy Projects, Federal Energy Regulatory Commission;
- Jim Matheson, Chief Executive Officer, National Rural Electric Cooperative Association;
- Amy Andryszak, President and Chief Executive Officer, Interstate Natural Gas Association of America;
- Todd A. Snitchler, President and Chief Executive Officer, Electric Power Supply Association and;
- Kim Smaczniak, Partner, Roselle LLP.

On June 5, 2025, the Subcommittee on Energy met in open markup session and forwarded H.R. 3616, as amended, to the full Committee by a record vote of 16 yeas and 14 nays. On June 25, 2025 the full Committee on Energy and Commerce met in open markup session and ordered H.R. 3616, without amendment, favorably reported to the House by a record vote of 28 yeas and 23 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

**COMMITTEE ON ENERGY AND COMMERCE
119TH CONGRESS
ROLL CALL VOTE # 2**

BILL: Committee Print of H.R. 3616, Reliable Power Act

AMENDMENT: Final Passage

DISPOSITION: Agreed to, by a roll call vote of 28 yeas and 23 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Guthrie	X			Mr. Pallone		X	
Mr. Latta	X			Ms. DeGette		X	
Mr. Griffith	X			Ms. Schakowsky		X	
Mr. Bilirakis	X			Ms. Matsui		X	
Mr. Hudson	X			Ms. Castor		X	
Mr. Carter (GA)	X			Mr. Tonko		X	
Mr. Palmer	X			Ms. Clarke		X	
Mr. Dunn	X			Mr. Ruiz		X	
Mr. Crenshaw	X			Mr. Peters		X	
Mr. Joyce	X			Mrs. Dingell		X	
Mr. Weber	X			Mr. Veasey		X	
Mr. Allen	X			Ms. Kelly		X	
Mr. Balderson	X			Ms. Barragán		X	
Mr. Fulcher	X			Mr. Soto		X	
Mr. Pfluger	X			Ms. Schrier		X	
Mrs. Harshbarger	X			Ms. Trahan		X	
Mrs. Miller-Meeks	X			Ms. Fletcher		X	
Mrs. Cammack	X			Ms. Ocasio-Cortez			
Mr. Obernolte	X			Mr. Auchincloss		X	
Mr. James	X			Mr. Carter (LA)		X	
Mr. Bentz	X			Mr. Menendez		X	
Mrs. Houchin	X			Mr. Mullin		X	
Mr. Fry	X			Mr. Landsman		X	
Ms. Lee				Ms. McClellan		X	
Mr. Langworthy	X						
Mr. Kean							
Mr. Rulli	X						
Mr. Evans	X						
Mr. Goldman	X						
Mrs. Fedorchak	X						

06/25/2025

**COMMITTEE ON ENERGY AND COMMERCE
SUBCOMMITTEE ON ENERGY
119TH CONGRESS
ROLL CALL VOTE # 2**

BILL: H.R. 3616, Reliable Power Act

AMENDMENT: Approved favorably to the Full Committee (Final Passage)

DISPOSITION: Agreed to as amended, by a roll call vote of 16 yeas to 14 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Latta	X			Ms. Castor		X	
Mr. Weber	X			Mr. Peters		X	
Mr. Palmer	X			Mr. Menendez		X	
Mr. Allen	X			Mr. Mullin		X	
Mr. Balderson	X			Ms. McClellan		X	
Mr. Pfluger	X			Ms. DeGette		X	
Mrs. Harshbarger	X			Ms. Matsui		X	
Mrs. Miller-Meeks				Mr. Tonko		X	
Mr. James	X			Mr. Veasey		X	
Mr. Bentz	X			Ms. Schrier		X	
Mr. Fry	X			Ms. Fletcher		X	
Ms. Lee				Ms. Ocasio-Cortez		X	
Mr. Langworthy	X			Mr. Auchincloss		X	
Mr. Rulli	X			Mr. Pallone		X	
Mr. Evans	X						
Mr. Goldman	X						
Mrs. Fedorchak	X						
Mr. Guthrie	X						

06/05/2025

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY,
AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 3616 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

H.R. 3616, Reliable Power Act			
As ordered reported by the House Committee on Energy and Commerce on June 25, 2025			
By Fiscal Year, Millions of Dollars	2025	2025-2030	2025-2035
Direct Spending (Outlays)	*	*	*
Revenues	*	*	*
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	*	1	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2036?	*	Statutory pay-as-you-go procedures apply? Yes	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2036?	*	Mandate Effects	
		Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Under Threshold
* = between zero and \$500,000.			

H.R. 3616 would require the Federal Energy Regulatory Commission (FERC), in consultation with the Electric Reliability Organization (ERO), to review regulations proposed by other federal agencies that could affect the reliability of the bulk-power system, under conditions specified in the bill. Agencies could not finalize those actions until they respond to any concerns raised by FERC as part of that review.

Using information from FERC, CBO expects that the agency would need additional staff and would need to acquire new data to fulfill the bill's requirements. CBO estimates that implementing those requirements would cost FERC less than \$10 million each year. However, because FERC is authorized to recover 100 percent of its costs through user fees, any change in agency costs (which are controlled through annual appropriation acts) would be offset by an equal change in fees that the commission charges. Accordingly, CBO estimates that implementing those provisions would result in no net change in discretionary spending for FERC.

CBO further estimates that the costs for other agencies (primarily the Department of Energy) to coordinate with FERC on

those reviews would total \$1 million over the 2025–2030 period; that spending would be subject to the availability of appropriated funds.

Finally, enacting H.R. 3616 would increase direct spending and revenues because spending by the ERO is recorded on the budget as direct spending, and the organization assesses fees, which are recorded as revenues, to cover its costs. CBO estimates that consulting with FERC would increase costs for the ERO by less than \$500,000 over the 2025–2035 period. Because any amounts collected would be spent soon thereafter, CBO estimates that the net effect on the deficit would be negligible.

Implementing the bill could result in some regulations being delayed because of the procedures specified in the bill. Those delays could result in budgetary effects; however, CBO has no basis to estimate which regulations could be affected, nor the direction or magnitude of any such effects.

If FERC and the ERO increase their fees to offset the costs of implementing the bill, H.R. 3616 would increase the cost of an existing mandate on public and private entities, such as electric utilities, that are required to pay those fees. CBO estimates that the incremental cost of the mandates would be small and fall well below the annual threshold established in the Unfunded Mandates Reform Act for intergovernmental and private-sector mandates (\$103 million and \$206 million in 2025, respectively, adjusted annually for inflation).

The CBO staff contacts for this estimate are Aaron Krupkin (for federal costs) and Brandon Lever (for mandates). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to provide accountability for federal rules that affect generation resources, and to provide a mechanism for adjusting any such rules to ensure they do not significantly impact electric power reliability.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3616 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

On February 5, 2025, the Subcommittee on Energy held a hearing that covered issues related to HR 3616. The title of the hearing was “Powering America’s Future: Unleashing American Energy.” The Subcommittee received testimony from:

- Amanda Eversole, Executive Vice President and Chief Advocacy Officer, American Petroleum Institute;
- Brigham McCown, Senior Fellow and Director, Initiative on American Energy Security, The Hudson Institute;
- Gary Arnold, Business Manager, Denver Pipefitters Local 208 and;
- Tyler O’Connor, Partner, Crowell & Moring LLP.

On March 5, 2025, the Subcommittee on Energy held a hearing that covered issues relating to HR 3616. The title of the hearing was “Scaling for Growth: Meeting the Demand for Reliable, Affordable Electricity.” The Subcommittee received testimony from:

- Todd Brickhouse, CEO and General Manager, Basin Electric Power Cooperative;
- Asim Haque, Senior Vice President for Governmental and Member Services, PJM;
- Noel W. Black, Senior VP of Regulatory Affairs, Southern Company and;
- Tyler H. Norris, James B. Duke Fellow, Duke University.

On March 25, 2025, the Subcommittee on Energy held a hearing that covered issues relating to HR 3616. The title of the hearing was “Keeping the Lights On: Examining the State of Regional Grid Reliability.” The Subcommittee received testimony from:

- Gordon van Welie, President and Chief Executive Officer, ISO New England;
- Richard J. Dewey, President and Chief Executive Officer, New York Independent System Operator;
- Manu Asthana, President and Chief Executive Officer, PJM Interconnection LLC;
- Jennifer Curran, Senior Vice President for Planning and Operations, Midcontinent ISO;
- Lanny Nickell, Chief Operating Officer, Southwest Power Pool;
- Elliot Mainzer, President and Chief Executive Officer, California Independent System Operator and;
- Pablo Vegas, President and Chief Executive Officer, Electric Reliability Council of Texas, Inc.

On April 9, 2025, the Committee on Energy and Commerce held a full committee hearing that covered issues relating to HR 3616. The title of the hearing was “The Energy Needs for Advancing American Technological Leadership.” The Committee received testimony from:

- Eric Schmidt, Chair, Special Competitive Studies Project;
- Manish Bhatia, Executive Vice President of Global Operations, Micron Technology;
- Alexander Wang, Founder and Chief Executive Officer, Scale AI, and;
- David Turk, Distinguished Visiting Fellow, Center on Global Energy Policy, Columbia University.

On April 30, 2025, the Subcommittee on Energy held a legislative hearing on H.R. 3616. The title of the hearing was “Assuring Abundant, Reliable American Energy to Power Innovation.” The Subcommittee received testimony from:

- Mike Goff, Acting Undersecretary of Energy, U.S. Department of Energy;
- David L. Morenoff, Acting General Counsel, Federal Energy Regulatory Commission;
- Terry Turpin, Director, Office of Energy Projects, Federal Energy Regulatory Commission;
- Jim Matheson, Chief Executive Officer, National Rural Electric Cooperative Association;
- Amy Andryszak, President and Chief Executive Officer, Interstate Natural Gas Association of America;
- Todd A. Snitchler, President and Chief Executive Officer, Electric Power Supply Association and;
- Kim Smaczniak, Partner, Roselle LLP.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3616 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides that the Act may be cited as the “Reliable Power Act”.

Section 2. Commission review and comment for covered agency actions

Paragraph (1) of Section 2 amends subsection (g) of Section 215 of the Federal Power Act to require under a new subsection (g) (2) an annual long-term assessment of the reliability and adequacy of the bulk-power system by the Energy Reliability Organization (ERO). The paragraph provides for what analyses the assessment must include, considering generation resource mix, transmission development, and electric energy demand trends, to assess the risk

of future electric energy supply shortfalls. It requires the ERO to make a determination whether additional generation resources are necessary to supply sufficient energy to maintain an adequate level of reliability during the assessment period.

The new subsection (g) (3) requests that, if the ERO finds the bulk-power system is at risk of not having adequate generation, it shall notify the Federal Energy Regulatory Commission (Commission) that the bulk-power system is in a state of generation inadequacy.

The new subsection (g) (4) provides that the ERO may collect information from users, owners, and operators of the bulk-power system to conduct its long-term assessments.

Paragraph (2) of Section 2 redesignates subsections (h) through (k) of the Federal Power Act as subsections (i) through (l) respectively.

Paragraph (3) of Section 2 inserts a new subsection (h) Commission Review and Comment for Covered Agency Actions. The new subsection (h) (1) provides that, if the ERO notifies the Commission that the bulk-power system is in a state of generation inadequacy, the Commission shall promptly notify the Department of Energy, the Environmental Protection Agency, and any other Federal agency the Commission determines appropriate of the state of generation inadequacy.

The new subsection (h) (2) provides that the head of each Federal agency so notified shall provide for Commission review and comment any Covered Agency Action by the Federal agency not later than 90 days before the covered action is made available for public inspection.

The new subsection (h) (3) provides that the Commission, in consultation with the ERO and transmission organizations, shall, by order, provide to the Federal agency comments on the Covered Agency Action, and, if applicable, recommendations for modification to the Covered Agency Action to prevent a significant negative impact on the ability of the bulk-power system to supply sufficient energy to maintain reliability. The Commission response may include assessment of the effects of the Covered Agency Action on rates, terms, and conditions for services, pursuant to Commission authority.

The new subsection (h) (4) provides that the head of a Federal agency may not finalize a Covered Agency Action provided to the Commission under (h) (2) until the agency head responds in writing to the Commission how the agency head modified the action in response to Commission comments and recommendations and the Commission finds that the Covered Agency Action will not be likely to have a significant negative impact on the reliability of the bulk-power system.

The new subsection (h) (5) provides for the Federal agency head to make public Commission comments, recommendations, and related responses for the Covered Agency Action.

The new subsection (h) (6) provides definitions, including that a Covered Agency Action is a regulation that relates to or otherwise directly affects any generation resources in the bulk-power system and is under development or consideration by a federal agency.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

FEDERAL POWER ACT

* * * * *

**PART II—REGULATION OF ELECTRIC UTILITY COMPANIES
ENGAGED IN INTERSTATE COMMERCE**

* * * * *

SEC. 215. ELECTRIC RELIABILITY.

(a) **DEFINITIONS.**—For purposes of this section:

(1) The term “bulk-power system” means—

(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

(2) The terms “Electric Reliability Organization” and “ERO” mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

(3) The term “reliability standard” means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

(4) The term “reliable operation” means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

(5) The term “Interconnection” means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

(6) The term “transmission organization” means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

(7) The term “regional entity” means an entity having enforcement authority pursuant to subsection (e)(4).

(8) The term “cybersecurity incident” means a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.

(b) JURISDICTION AND APPLICABILITY.—(1) The Commission shall have jurisdiction, within the United States, over the ERO certified by the Commission under subsection (c), any regional entities, and all users, owners and operators of the bulk-power system, including but not limited to the entities described in section 201(f), for purposes of approving reliability standards established under this section and enforcing compliance with this section. All users, owners and operators of the bulk-power system shall comply with reliability standards that take effect under this section.

(2) The Commission shall issue a final rule to implement the requirements of this section not later than 180 days after the date of enactment of this section.

(c) CERTIFICATION.—Following the issuance of a Commission rule under subsection (b)(2), any person may submit an application to the Commission for certification as the Electric Reliability Organization. The Commission may certify one such ERO if the Commission determines that such ERO—

(1) has the ability to develop and enforce, subject to subsection (e)(2), reliability standards that provide for an adequate level of reliability of the bulk-power system; and

(2) has established rules that—

(A) assure its independence of the users and owners and operators of the bulk-power system, while assuring fair stakeholder representation in the selection of its directors and balanced decisionmaking in any ERO committee or subordinate organizational structure;

(B) allocate equitably reasonable dues, fees, and other charges among end users for all activities under this section;

(C) provide fair and impartial procedures for enforcement of reliability standards through the imposition of penalties in accordance with subsection (e) (including limitations on activities, functions, or operations, or other appropriate sanctions);

(D) provide for reasonable notice and opportunity for public comment, due process, openness, and balance of interests in developing reliability standards and otherwise exercising its duties; and

(E) provide for taking, after certification, appropriate steps to gain recognition in Canada and Mexico.

(d) RELIABILITY STANDARDS.—(1) The Electric Reliability Organization shall file each reliability standard or modification to a reli-

ability standard that it proposes to be made effective under this section with the Commission.

(2) The Commission may approve, by rule or order, a proposed reliability standard or modification to a reliability standard if it determines that the standard is just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission shall give due weight to the technical expertise of the Electric Reliability Organization with respect to the content of a proposed standard or modification to a reliability standard and to the technical expertise of a regional entity organized on an Interconnection-wide basis with respect to a reliability standard to be applicable within that Interconnection, but shall not defer with respect to the effect of a standard on competition. A proposed standard or modification shall take effect upon approval by the Commission.

(3) The Electric Reliability Organization shall rebuttably presume that a proposal from a regional entity organized on an Interconnection-wide basis for a reliability standard or modification to a reliability standard to be applicable on an Interconnection-wide basis is just, reasonable, and not unduly discriminatory or preferential, and in the public interest.

(4) The Commission shall remand to the Electric Reliability Organization for further consideration a proposed reliability standard or a modification to a reliability standard that the Commission disapproves in whole or in part.

(5) The Commission, upon its own motion or upon complaint, may order the Electric Reliability Organization to submit to the Commission a proposed reliability standard or a modification to a reliability standard that addresses a specific matter if the Commission considers such a new or modified reliability standard appropriate to carry out this section.

(6) The final rule adopted under subsection (b)(2) shall include fair processes for the identification and timely resolution of any conflict between a reliability standard and any function, rule, order, tariff, rate schedule, or agreement accepted, approved, or ordered by the Commission applicable to a transmission organization. Such transmission organization shall continue to comply with such function, rule, order, tariff, rate schedule or agreement accepted, approved, or ordered by the Commission until—

(A) the Commission finds a conflict exists between a reliability standard and any such provision;

(B) the Commission orders a change to such provision pursuant to section 206 of this part; and

(C) the ordered change becomes effective under this part.

If the Commission determines that a reliability standard needs to be changed as a result of such a conflict, it shall order the ERO to develop and file with the Commission a modified reliability standard under paragraph (4) or (5) of this subsection.

(e) ENFORCEMENT.—(1) The ERO may impose, subject to paragraph (2), a penalty on a user or owner or operator of the bulk-power system for a violation of a reliability standard approved by the Commission under subsection (d) if the ERO, after notice and an opportunity for a hearing—

(A) finds that the user or owner or operator has violated a reliability standard approved by the Commission under subsection (d); and

(B) files notice and the record of the proceeding with the Commission.

(2) A penalty imposed under paragraph (1) may take effect not earlier than the 31st day after the ERO files with the Commission notice of the penalty and the record of proceedings. Such penalty shall be subject to review by the Commission, on its own motion or upon application by the user, owner or operator that is the subject of the penalty filed within 30 days after the date such notice is filed with the Commission. Application to the Commission for review, or the initiation of review by the Commission on its own motion, shall not operate as a stay of such penalty unless the Commission otherwise orders upon its own motion or upon application by the user, owner or operator that is the subject of such penalty. In any proceeding to review a penalty imposed under paragraph (1), the Commission, after notice and opportunity for hearing (which hearing may consist solely of the record before the ERO and opportunity for the presentation of supporting reasons to affirm, modify, or set aside the penalty), shall by order affirm, set aside, reinstate, or modify the penalty, and, if appropriate, remand to the ERO for further proceedings. The Commission shall implement expedited procedures for such hearings.

(3) On its own motion or upon complaint, the Commission may order compliance with a reliability standard and may impose a penalty against a user or owner or operator of the bulk-power system if the Commission finds, after notice and opportunity for a hearing, that the user or owner or operator of the bulk-power system has engaged or is about to engage in any acts or practices that constitute or will constitute a violation of a reliability standard.

(4) The Commission shall issue regulations authorizing the ERO to enter into an agreement to delegate authority to a regional entity for the purpose of proposing reliability standards to the ERO and enforcing reliability standards under paragraph (1) if—

(A) the regional entity is governed by—

- (i) an independent board;
- (ii) a balanced stakeholder board; or
- (iii) a combination independent and balanced stakeholder board.

(B) the regional entity otherwise satisfies the provisions of subsection (c)(1) and (2); and

(C) the agreement promotes effective and efficient administration of bulk-power system reliability.

The Commission may modify such delegation. The ERO and the Commission shall rebuttably presume that a proposal for delegation to a regional entity organized on an Interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved. Such regulation may provide that the Commission may assign the ERO's authority to enforce reliability standards under paragraph (1) directly to a regional entity consistent with the requirements of this paragraph.

(5) The Commission may take such action as is necessary or appropriate against the ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the ERO or a regional entity.

(6) Any penalty imposed under this section shall bear a reasonable relation to the seriousness of the violation and shall take into

consideration the efforts of such user, owner, or operator to remedy the violation in a timely manner.

(f) **CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.**—The Electric Reliability Organization shall file with the Commission for approval any proposed rule or proposed rule change, accompanied by an explanation of its basis and purpose. The Commission, upon its own motion or complaint, may propose a change to the rules of the ERO. A proposed rule or proposed rule change shall take effect upon a finding by the Commission, after notice and opportunity for comment, that the change is just, reasonable, not unduly discriminatory or preferential, is in the public interest, and satisfies the requirements of subsection (c).

(g) **RELIABILITY REPORTS.**—**[The ERO]**

(1) *IN GENERAL.*—*The ERO shall conduct periodic assessments of the reliability and adequacy of the bulk-power system in North America.*

(2) *ANNUAL LONG-TERM ASSESSMENT.*—*The assessments under paragraph (1) shall include an annual long-term assessment, which shall include—*

(A) *an analysis of the ability of the bulk-power system to supply sufficient electric energy necessary to maintain an adequate level of reliability, taking into account generation resource mix, transmission development, and electric energy demand trends;*

(B) *an analysis of the risk of future electric energy supply shortfalls under normal and extreme weather conditions, and the risk of any such shortfalls within each region of the bulk-power system; and*

(C) *a determination of whether additional generation resources are necessary to supply sufficient electric energy to maintain an adequate level of reliability during the assessment period.*

(3) *NOTICE OF GENERATION INADEQUACY.*—*In conducting a long-term assessment under paragraph (2), if the ERO finds that the bulk-power system is at risk of not having adequate generation resources to supply sufficient electric energy to maintain an adequate level of reliability, the ERO shall publicly notify the Commission that the bulk-power system is in a state of generation inadequacy.*

(4) *DATA COLLECTION.*—*To conduct a long-term assessment under paragraph (2), the ERO may collect information and data from users, owners, and operators of the bulk-power system.*

(h) **COMMISSION REVIEW AND COMMENT FOR COVERED AGENCY ACTIONS.**—

(1) *NOTICE TO FEDERAL AGENCIES.*—*If the ERO notifies the Commission under subsection (g)(3) that the bulk-power system is in a state of generation inadequacy, the Commission shall promptly notify the Department of Energy, the Environmental Protection Agency, and any other Federal agency the Commission determines appropriate of such state of generation inadequacy.*

(2) *SUBMISSION.*—*Upon receiving notice under paragraph (1), the head of each Federal agency that received such notice shall*

provide to the Commission for review and comment any covered agency action by the Federal agency—

(A) on the first date on which such covered agency action is provided to the Office of Management and Budget or any other Federal agency for review and comment; or

(B) if such covered agency action is not provided to the Office of Management and Budget or any other Federal agency for review and comment, not later than 90 days before the date on which the covered agency action is published in the Federal Register or is otherwise made available for public inspection or comment.

(3) COMMISSION COMMENTS.—The Commission, in consultation with the ERO and transmission organizations, shall, by order, provide to the agency head that provided to the Commission a covered agency action under paragraph (2)—

(A) comments on such covered agency action, which such comments may include an assessment of the effect of the covered agency action on rates, terms, and conditions for services pursuant to the authority of the Commission under sections 201 and 206; and

(B) if applicable, recommendations for modifications to the covered agency action to prevent a significant negative impact on the ability of the bulk-power system to supply sufficient electric energy necessary to maintain an adequate level of reliability.

(4) AGENCY RESPONSE.—The head of a Federal agency may not finalize a covered agency action that is provided to the Commission under paragraph (2) until—

(A) the agency head responds in writing to the Commission with an explanation of how the agency head modified, or why the agency head determined not to modify, such covered agency action in response to any comments and recommendations provided by the Commission under paragraph (3); and

(B) the Commission finds that the covered agency action will not be likely to have a significant negative impact on the ability of the bulk-power system to supply sufficient electric energy necessary to maintain an adequate level of reliability.

(5) PUBLIC AVAILABILITY OF COMMENTS AND RESPONSES.—An agency head shall include any comments, recommendations, and responses for the covered agency action when—

(A) submitting the covered agency action to the Federal Register for publication; or

(B) otherwise making the covered agency action available for public inspection or comment.

(6) DEFINITIONS.—In this subsection:

(A) COVERED AGENCY ACTION.—The term “covered agency action” means a regulation that—

(i) relates to, or otherwise directly affects, any generation resource in the bulk-power system; and

(ii) is under development to be proposed or otherwise under consideration in a rulemaking prior to finalization on the date on which the Federal agency receives notice from the Commission under paragraph (1).

(B) *FEDERAL AGENCY.*—The term “Federal agency” means an Executive department (as that term is defined in section 101 of title 5, United States Code) or any other Executive agency that is in the President’s cabinet.

[(h)] (i) *COORDINATION WITH CANADA AND MEXICO.*—The President is urged to negotiate international agreements with the governments of Canada and Mexico to provide for effective compliance with reliability standards and the effectiveness of the ERO in the United States and Canada or Mexico.

[(i)] (j) *SAVINGS PROVISIONS.*—(1) The ERO shall have authority to develop and enforce compliance with reliability standards for only the bulk-power system.

(2) This section does not authorize the ERO or the Commission to order the construction of additional generation or transmission capacity or to set and enforce compliance with standards for adequacy or safety of electric facilities or services.

(3) Nothing in this section shall be construed to preempt any authority of any State to take action to ensure the safety, adequacy, and reliability of electric service within that State, as long as such action is not inconsistent with any reliability standard, except that the State of New York may establish rules that result in greater reliability within that State, as long as such action does not result in lesser reliability outside the State than that provided by the reliability standards.

(4) Within 90 days of the application of the Electric Reliability Organization or other affected party, and after notice and opportunity for comment, the Commission shall issue a final order determining whether a State action is inconsistent with a reliability standard, taking into consideration any recommendation of the ERO.

(5) The Commission, after consultation with the ERO and the State taking action, may stay the effectiveness of any State action, pending the Commission’s issuance of a final order.

[(j)] (k) *REGIONAL ADVISORY BODIES.*—The Commission shall establish a regional advisory body on the petition of at least two-thirds of the States within a region that have more than one-half of their electric load served within the region. A regional advisory body shall be composed of one member from each participating State in the region, appointed by the Governor of each State, and may include representatives of agencies, States, and provinces outside the United States. A regional advisory body may provide advice to the Electric Reliability Organization, a regional entity, or the Commission regarding the governance of an existing or proposed regional entity within the same region, whether a standard proposed to apply within the region is just, reasonable, not unduly discriminatory or preferential, and in the public interest, whether fees proposed to be assessed within the region are just, reasonable, not unduly discriminatory or preferential, and in the public interest and any other responsibilities requested by the Commission. The Commission may give deference to the advice of any such regional advisory body if that body is organized on an Interconnection-wide basis.

[(k)] (l) *ALASKA AND HAWAII.*—The provisions of this section do not apply to Alaska or Hawaii.

* * * * *

MINORITY VIEWS

H.R. 3616, the Reliable Power Act H.R. 3616, the Reliable Power Act, would restructure section 215 of the Federal Power Act to grant the Federal Energy Regulatory Commission (FERC) veto authority over other agencies' regulations in certain circumstances. It would effectively elevate FERC's authority over all other agencies' statutory responsibilities. The bill would grant FERC an unprecedented veto over other agency actions while FERC's status as an independent regulator is in serious jeopardy.

The bill grants FERC power over other agency regulations if the North American Electric Reliability Corporation (NERC) notifies FERC that the bulk-power system is in a "state of generation inadequacy."¹ This would transform NERC from a neutral arbiter of the electric sector's reliability into a political actor, deciding when to grant FERC additional powers.

NERC's annual long-term reliability assessments would become politicized, and Congress would delegate a decision about what powers FERC should have to an industry body.

Furthermore, while NERC and its staff do an admirable job with relatively few resources, their judgment is only as good as the data inputs they receive. This recently became an issue when NERC announced that it was reclassifying the footprint of the Midcontinent Independent System Operator (MISO) from a state of high risk to a state of elevated risk later this decade, because MISO had mismatched data submitted to NERC.² This episode highlights the sheer complexity of NERC's reliability assessments, and, while useful, they are uncertain enough that they should not be used to trigger additional FERC authorities.

The majority's report singles out the Environmental Protection Agency's (EPA) 2024 rule on New Source Performance Standards for new, modified, and reconstructed power plants. However, the majority can hardly argue that EPA lacked information on potential reliability impacts when crafting the rule. In April 2023, a year before the rule was finalized, FERC staff from the Office of Electric Reliability met with EPA staff regarding the rule.³ In November 2023, FERC held a technical conference that featured EPA's then-Principal Deputy Assistant Administrator for the Office of Air and Radiation, Joseph Goffman, as a witness and included an additional two panels from electric industry stakeholders discussing the

¹H.R. 3616.

²North American Electric Reliability Corporation, *Statement on NERC's 2024 Long-Term Assessment* (June 17, 2025) (<https://www.nerc.com/news/Pages/Statement-on-NERC%E2%80%99s-2024-Long-Term-Reliability-Assessment.aspx>).

³House Committee on Energy and Commerce, Response from Dr. David Ortiz, Director, Office of Electric Reliability, Federal Energy Regulatory Commission, to a Question for the Record from Chair Jeff Duncan, Subcommittee on Climate and Grid Security, *Hearing on Keeping the Lights on: Enhancing Reliability and Efficiency to Power American Homes*, 118th Cong. (Sept. 13, 2023).

rule.⁴ Following the technical conference, EPA noticed a supplemental notice of proposed rulemaking, specifically soliciting comments on how the proposed rule related to electric reliability, and received over one hundred comments.⁵ Finally, then-FERC Commissioner James Danly himself submitted two comments on the rule to EPA.⁶

The majority may dislike the conclusions EPA came to, but the agency's process was undeniably thorough. EPA considered a number of factors, including electric reliability, and came to a conclusion of what was required of it under the Clean Air Act. Here, the majority seeks to upset the law without actually doing the hard work of amending agency authorizing statutes, instead simply giving the final call to FERC—an independent commission that “has no business promoting the policies of any one party or presidential administration.”⁷

Giving FERC the final call on regulations is even more concerning now than it was in prior administrations due to an exodus of staff over the previous nine months. The agency has lost 11 percent of its workforce since the Trump Administration took office, meaning that it will struggle to carry out its basic activities regulating the energy sector, let alone policing other agencies' regulations.⁸ This amplifies fears that even at pre-Trump Administration staffing levels, FERC lacked the capacity to implement the bill, as the Committee heard from Dr. David Ortiz, then-Director of FERC's Office of Electric Reliability in 2023 and FERC's Acting General Counsel David L. Morenoff earlier this year.⁹

At the Energy Subcommittee Markup, Rep. Diana DeGette (D-CO) offered an amendment that would have fixed this portion of the bill by preventing it from taking effect until FERC certified that it had sufficient staffing capacity to analyze all covered agency actions.¹⁰ That amendment failed on a party-line vote.

For the reasons stated above, I oppose this legislation.

FRANK PALLONE, Jr.,
Ranking Member.



⁴Federal Energy Regulatory Commission, *Second Supplemental Notice of Technical Conference*, Reliability Technical Conference, Docket No. AD23-9 (Oct. 30, 2023).

⁵Environmental Protection Agency, *New Source Performance Standards for Greenhouse Gas Emissions From New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units*, 88 Fed. Reg. 80682. (Nov. 20, 2023) (proposed rule).

⁶Commissioner James Danly, Comment to Docket No. EPA-HQ-OAR-2023-0072 (Aug. 8, 2023); Commissioner James Danly, Comment to Docket No. EPA-HQ-OAR-2023-0072 (Dec. 20, 2023).

⁷Federal Energy Regulatory Commission, *Building for the Future Through Electric Regional Transmission Planning and Cost Allocation*, Order No. 1920, 187 FERC ¶ 61,068 (May 13, 2024) (Christie, Commissioner, dissenting at PP 4).

⁸'Brain Drain' at FERC Hits Legal and Policy Staff, E&E News (Sep. 5, 2025).

⁹House Committee on Energy and Commerce, Testimony of Dr. David Ortiz, Director, Office of Electric Reliability, Federal Energy Regulatory Commission, *Hearing on Keeping the Lights on: Enhancing Reliability and Efficiency to Power American Homes*, 118th Cong. (Sept. 13, 2023); House Committee on Energy and Commerce, Testimony of David L. Morenoff, Acting General Counsel, Federal Energy Regulatory Commission, *Hearing on Assuring Abundant, Reliable American Energy to Power Innovation*, 119th Cong. (Apr. 30, 2024).

¹⁰House Committee on Energy and Commerce, Subcommittee on Energy, *Markup of 13 Bills*, 119th Cong. (June 5, 2025).