

110TH CONGRESS  
1ST SESSION

# S. 2006

To provide for disaster assistance for power transmission and distribution facilities, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2007

Ms. LANDRIEU introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

SEPTEMBER 17, 2007

Committee discharged; referred to the Committee on Homeland Security and Governmental Affairs

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## A BILL

To provide for disaster assistance for power transmission and distribution facilities, 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 “Rate Payer Recovery  
5       Act of 2007”.

1 **SEC. 2. DISASTER ASSISTANCE FOR POWER TRANSMISSION**  
 2 **AND DISTRIBUTION FACILITIES.**

3 (a) PRIVATE OR INVESTOR-OWNED POWER FACILITY  
 4 DEFINED.—Section 102 of the Robert T. Stafford Dis-  
 5 aster Relief and Emergency Assistance Act (42 U.S.C.  
 6 5122) is amended by adding at the end the following:

7 “(11) PRIVATE OR INVESTOR-OWNED POWER  
 8 FACILITY.—The term ‘private or investor-owned  
 9 power facility’—

10 “(A) means a privately-owned or investor-  
 11 owned transmission or distribution facility that  
 12 provides electric or natural gas service to retail  
 13 customers under State or local jurisdiction; and

14 “(B) includes leased facilities.”.

15 (b) CONDITIONS FOR CONTRIBUTIONS.—Section  
 16 406(a) of the Robert T. Stafford Disaster Relief and  
 17 Emergency Assistance Act (42 U.S.C. 5172(a)) is amend-  
 18 ed—

19 (1) in paragraph (1)—

20 (A) in subparagraph (A), by striking  
 21 “and” at the end;

22 (B) in subparagraph (B), by striking the  
 23 period and inserting “; and”; and

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

25 “(C) subject to paragraph (4), to a person  
 26 that owns a private or investor-owned power fa-

1           cility damaged or destroyed by a major disaster  
 2           for the repair, restoration, reconstruction, or re-  
 3           placement of the facility and for associated ex-  
 4           penses incurred by the person.”;

5           (2) by redesignating paragraph (4) as para-  
 6           graph (5); and

7           (3) by inserting after paragraph (3) the fol-  
 8           lowing:

9           “(4) CONDITIONS FOR ASSISTANCE TO PRIVATE  
 10          OR INVESTOR-OWNED POWER FACILITIES.—

11           “(A) DEFINITION.—In this paragraph, the  
 12          term ‘previous major disaster’ means a major  
 13          disaster—

14           “(i) occurring before the disaster for  
 15          which Federal assistance is sought under  
 16          this subsection; and

17           “(ii) the declaration of which was not  
 18          more than 10 years before the date of the  
 19          declaration of the major disaster for which  
 20          Federal assistance is sought under this  
 21          subsection.

22           “(B)     CONDITIONED     ON     PREVIOUS  
 23          EVENT.—The President may make contribu-  
 24          tions to the owner of a private or investor-

owned power facility under paragraph (1)(C),  
only if—

“(i) the cost of repairing, restoring, or  
replacing the private or investor-owned  
power facilities damaged or destroyed by  
the previous major disaster exceeded  
\$2,500 for each retail customer receiving  
electrical or natural gas service from the  
owner on the day before the date of the  
previous disaster;

“(ii) the total costs of repair, restora-  
tion, or replacement of all private or inves-  
tor-owned power facilities owned by such  
person and associated expenses as a result  
of the previous major disaster exceeded  
\$500,000,000; and

“(iii) 25 percent or more of the popu-  
lation, as determined by the Bureau of the  
Census, of each geographic area of each  
local government in which the private or  
investor-owned power facility is located,  
had taxable income in the year preceding  
the previous major disaster below the Fed-  
eral poverty level on the date of the pre-  
vious major disaster.

1           “(C) APPLICATION FOR FUNDS.—A person  
2           that owns a private or investor-owned power fa-  
3           cility that meets the requirements under sub-  
4           paragraph (B) may apply for Federal assistance  
5           not later than the earlier of—

6                   “(i) 30 days after declaration of a  
7                   major disaster; or

8                   “(ii) the date upon which the owner of  
9                   the private or investor-owned power facility  
10                  has contributed \$10,000,000 towards the  
11                  total costs of repair, restoration, or re-  
12                  placement of the private or investor-owned  
13                  power facility damaged or destroyed as a  
14                  result of the major disaster for which it re-  
15                  quests Federal assistance.

16           “(D) LIMIT ON FEDERAL ASSISTANCE FOR  
17           DISASTER RELIEF.—Federal assistance under  
18           this section to the owner of a private or inves-  
19           tor-owned power facility shall only apply to eli-  
20           gible costs and expenses directly incurred by the  
21           owner exceeding \$10,000,000.

22           “(E) AGGREGATION FOR PURPOSES OF DE-  
23           TERMINING COSTS.—For purposes of deter-  
24           mining the costs of a previous major disaster  
25           under this paragraph, the costs of all previous

1 major disasters during any 12-month period  
2 shall be aggregated.

3 “(F) APPROVAL OR DISAPPROVAL OF AP-  
4 PPLICATIONS.—The President shall approve or  
5 disapprove an application for assistance sub-  
6 mitted by a person under this paragraph not  
7 later than 30 days after the date of receipt of  
8 the application.”.

9 (c) FEDERAL SHARE.—Section 406(b)(2) of the Rob-  
10 ert T. Stafford Disaster Relief and Emergency Assistance  
11 Act (42 U.S.C. 5172(b)(2)) is amended by striking “public  
12 facility or private nonprofit facility” and inserting “public  
13 facility, private nonprofit facility, or private or investor-  
14 owned power facility”.

15 (d) LARGE IN-LIEU CONTRIBUTIONS.—Section  
16 406(c) of the Robert T. Stafford Disaster Relief and  
17 Emergency Assistance Act (42 U.S.C. 5172(c)) is amend-  
18 ed by adding at the end the following:

19 “(3) FOR PRIVATE OR INVESTOR-OWNED  
20 POWER FACILITIES.—

21 “(A) IN GENERAL.—In any case in which  
22 a person that owns a private or investor-owned  
23 power facility determines that the public welfare  
24 would not best be served by repairing, restor-  
25 ing, reconstructing, or replacing the facility, the

1 person may elect to receive, in lieu of a con-  
2 tribution under subsection (a)(1)(C), a con-  
3 tribution in an amount equal to 75 percent of  
4 the Federal share of the Federal estimate of the  
5 cost of repairing, restoring, reconstructing, or  
6 replacing the facility and of management ex-  
7 penses, under the conditions described in sub-  
8 section (a)(4).

9 “(B) USE OF FUNDS.—Funds contributed  
10 to a person under this paragraph may be used  
11 to—

12 “(i) repair, restore, or expand other  
13 private or investor-owned power facilities  
14 owned by the person;

15 “(ii) construct a new private or inves-  
16 tor-owned power facility owned by the per-  
17 son; or

18 “(iii) fund hazard mitigation meas-  
19 ures that the person determines to be nec-  
20 essary to meet a need for the services and  
21 functions of the person in the area affected  
22 by the major disaster.”.

23 (e) ELIGIBLE COST.—Section 406(e)(1)(A) of the  
24 Robert T. Stafford Disaster Relief and Emergency Assist-  
25 ance Act (42 U.S.C. 5172(e)(1)(A)) is amended by strik-

1 ing “public facility or private nonprofit facility” and in-  
2 serting “public facility, private nonprofit facility, or pri-  
3 vate or investor-owned power facility”.

4 **SEC. 3. REGULATIONS.**

5 Not later than 180 days after the date of enactment  
6 of this Act, the Secretary of Homeland Security shall pro-  
7 mulgate regulations necessary to implement this Act and  
8 the amendments made by this Act.

9 **SEC. 4. EFFECTIVE DATE.**

10 (a) IN GENERAL.—Except as provided under sub-  
11 section (b), this Act and the amendments made by this  
12 Act shall take effect 60 days after the date of enactment  
13 of this Act.

14 (b) REGULATIONS.—Section 3 shall take effect on the  
15 date of enactment of this Act.

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