

112TH CONGRESS
2D SESSION

H. R. 4273

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2012

Received; read twice and referred to the Committee on Environment and
Public Works

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,*

1 **SECTION 1. SHORT TITLE.**

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

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

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

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

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

11 “(2) With respect to an order issued under this sub-
12 section that may result in a conflict with a requirement
13 of any Federal, State, or local environmental law or regu-
14 lation, the Commission shall ensure that such order re-
15 quires generation, delivery, interchange, or transmission
16 of electric energy only during hours necessary to meet the
17 emergency and serve the public interest, and, to the max-
18 imum extent practicable, is consistent with any applicable
19 Federal, State, or local environmental law or regulation
20 and minimizes any adverse environmental impacts.

21 “(3) To the extent any omission or action taken by
22 a party, that is necessary to comply with an order issued
23 under this subsection, including any omission or action
24 taken to voluntarily comply with such order, results in
25 noncompliance with, or causes such party to not comply
26 with, any Federal, State, or local environmental law or

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

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

14 “(B) In renewing or reissuing an order under sub-
15 paragraph (A), the Commission shall consult with the pri-
16 mary Federal agency with expertise in the environmental
17 interest protected by such law or regulation, and shall in-
18 clude in any such renewed or reissued order such condi-
19 tions as such Federal agency determines necessary to min-
20 imize any adverse environmental impacts to the maximum
21 extent practicable. The conditions, if any, submitted by
22 such Federal agency shall be made available to the public.
23 The Commission may exclude such a condition from the
24 renewed or reissued order if it determines that such condi-
25 tion would prevent the order from adequately addressing

1 the emergency necessitating such order and provides in
2 the order, or otherwise makes publicly available, an expla-
3 nation of such determination.”.

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

Passed the House of Representatives August 1,
2012.

Attest:

KAREN L. HAAS,

Clerk.