

113TH CONGRESS
2D SESSION

S. 2823

To require approval for the construction, connection, operation, or maintenance of oil or natural gas pipelines or electric transmission facilities at the national boundary of the United States for the import or export of oil, natural gas, or electricity to or from Canada or Mexico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 16, 2014

Mr. HOEVEN (for himself, Mr. DONNELLY, Ms. MURKOWSKI, and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To require approval for the construction, connection, operation, or maintenance of oil or natural gas pipelines or electric transmission facilities at the national boundary of the United States for the import or export of oil, natural gas, or electricity to or from Canada or Mexico, 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 “North American En-
5 ergy Infrastructure Act”.

1 **SEC. 2. FINDING.**

2 Congress finds that the United States should estab-
3 lish a more uniform, transparent, and modern process for
4 the construction, connection, operation, and maintenance
5 of oil and natural gas pipelines and electric transmission
6 facilities for the import and export of oil and natural gas
7 and the transmission of electricity to and from Canada
8 and Mexico, in pursuit of a more secure and efficient
9 North American energy market.

10 **SEC. 3. AUTHORIZATION OF CERTAIN ENERGY INFRA-**
11 **STRUCTURE PROJECTS AT THE NATIONAL**
12 **BOUNDARY OF THE UNITED STATES.**

13 (a) AUTHORIZATION.—Except as provided in sub-
14 section (c) and section 7, no person may construct, con-
15 nect, operate, or maintain a cross-border segment of an
16 oil pipeline or electric transmission facility for the import
17 or export of oil or the transmission of electricity to or from
18 Canada or Mexico without obtaining a certificate of cross-
19 ing for the construction, connection, operation, or mainte-
20 nance of the cross-border segment under this section.

21 (b) CERTIFICATE OF CROSSING.—

22 (1) REQUIREMENT.—Not later than 120 days
23 after final action is taken under the National Envi-
24 ronmental Policy Act of 1969 (42 U.S.C. 4321 et
25 seq.) with respect to a cross-border segment for
26 which a request is received under this section, the

1 relevant official identified under paragraph (2), in
2 consultation with appropriate Federal agencies, shall
3 issue a certificate of crossing for the cross-border
4 segment unless the relevant official finds that the
5 construction, connection, operation, or maintenance
6 of the cross-border segment is not in the public in-
7 terest of the United States.

8 (2) RELEVANT OFFICIAL.—The relevant official
9 referred to in paragraph (1) is—

10 (A) the Secretary of State with respect to
11 oil pipelines; and

12 (B) the Secretary of Energy with respect
13 to electric transmission facilities.

14 (3) ADDITIONAL REQUIREMENT FOR ELECTRIC
15 TRANSMISSION FACILITIES.—In the case of a request
16 for a certificate of crossing for the construction, con-
17 nection, operation, or maintenance of a cross-border
18 segment of an electric transmission facility, the Sec-
19 retary of Energy shall require, as a condition of
20 issuing the certificate of crossing for the request
21 under paragraph (1), that the cross-border segment
22 of the electric transmission facility be constructed,
23 connected, operated, or maintained consistent with
24 all applicable policies and standards of—

1 (A) the Electric Reliability Organization
2 and the applicable regional entity; and

3 (B) any Regional Transmission Organiza-
4 tion or Independent System Operator with
5 operational or functional control over the cross-
6 border segment of the electric transmission fa-
7 cility.

8 (c) EXCLUSIONS.—This section shall not apply to any
9 construction, connection, operation, or maintenance of a
10 cross-border segment of an oil pipeline or electric trans-
11 mission facility for the import or export of oil or the trans-
12 mission of electricity to or from Canada or Mexico—

13 (1) if the cross-border segment is operating for
14 such import, export, or transmission as of the date
15 of enactment of this Act;

16 (2) if a permit described in section 6 for such
17 construction, connection, operation, or maintenance
18 has been issued;

19 (3) if a certificate of crossing for such construc-
20 tion, connection, operation, or maintenance has pre-
21 viously been issued under this section; or

22 (4) if an application for a permit described in
23 section 6 for such construction, connection, oper-
24 ation, or maintenance is pending on the date of en-
25 actment of this Act, until the earlier of—

1 (A) the date on which such application is
 2 denied; or

3 (B) July 1, 2016.

4 (d) EFFECT OF OTHER LAWS.—

5 (1) APPLICATION TO PROJECTS.—Nothing in
 6 this section or section 7 shall affect the application
 7 of any other Federal statute to a project for which
 8 a certificate of crossing for the construction, connec-
 9 tion, operation, or maintenance of a cross-border
 10 segment is sought under this section.

11 (2) ENERGY POLICY AND CONSERVATION
 12 ACT.—Nothing in this section or section 7 shall af-
 13 fect the authority of the President under section
 14 103(a) of the Energy Policy and Conservation Act.

15 **SEC. 4. IMPORTATION OR EXPORTATION OF NATURAL GAS**
 16 **TO CANADA AND MEXICO.**

17 Section 3(c) of the Natural Gas Act (15 U.S.C.
 18 717b(c)) is amended—

19 (1) by striking, “For purposes of subsection (a)
 20 of this section” and inserting the following:

21 “(1) IN GENERAL.—For purposes of subsection
 22 (a)”;

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

24 “(2) DEADLINE FOR APPROVAL OF APPLICA-
 25 TIONS RELATING TO CANADA AND MEXICO.—In the

1 case of an application for the importation or expor-
 2 tation of natural gas to or from Canada or Mexico,
 3 the Commission shall approve the application not
 4 later than 30 days after the date of receipt of the
 5 application.”.

6 **SEC. 5. TRANSMISSION OF ELECTRIC ENERGY TO CANADA**
 7 **AND MEXICO.**

8 (a) REPEAL OF REQUIREMENT TO SECURE
 9 ORDER.—Section 202(e) of the Federal Power Act (16
 10 U.S.C. 824a(e)) is repealed.

11 (b) CONFORMING AMENDMENTS.—

12 (1) STATE REGULATIONS.—Section 202(f) of
 13 the Federal Power Act (16 U.S.C. 824a(f)) is
 14 amended by striking “insofar as such State regula-
 15 tion does not conflict with the exercise of the Com-
 16 mission’s powers under or relating to subsection
 17 202(e)”.

18 (2) SEASONAL DIVERSITY ELECTRICITY EX-
 19 CHANGE.—Section 602(b) of the Public Utility Reg-
 20 ulatory Policies Act of 1978 (16 U.S.C. 824a–4(b))
 21 is amended by striking “the Commission has con-
 22 ducted hearings and made the findings required
 23 under section 202(e) of the Federal Power Act” and
 24 all that follows through the period at the end and
 25 inserting “the Secretary has conducted hearings and

1 finds that the proposed transmission facilities would
2 not impair the sufficiency of electric supply within
3 the United States or would not impede or tend to
4 impede the coordination in the public interest of fa-
5 cilities subject to the jurisdiction of the Secretary.”.

6 **SEC. 6. NO PRESIDENTIAL PERMIT REQUIRED.**

7 No Presidential permit (or similar permit) required
8 under Executive Order No. 13337 (3 U.S.C. 301 note),
9 Executive Order No. 11423 (3 U.S.C. 301 note), section
10 301 of title 3, United States Code, Executive Order No.
11 12038, Executive Order No. 10485, or any other Execu-
12 tive order shall be necessary for the construction, connec-
13 tion, operation, or maintenance of an oil or natural gas
14 pipeline or electric transmission facility, or any cross-bor-
15 der segment thereof.

16 **SEC. 7. MODIFICATIONS TO EXISTING PROJECTS.**

17 No certificate of crossing under section 3, or permit
18 described in section 6, shall be required for a modification
19 to the construction, connection, operation, or maintenance
20 of an oil or natural gas pipeline or electric transmission
21 facility—

22 (1) that is operating for the import or export
23 of oil or natural gas or the transmission of elec-
24 tricity to or from Canada or Mexico as of the date
25 of enactment of the Act;

1 (2) for which a permit described in section 6 for
2 such construction, connection, operation, or maintenance
3 has been issued; or

4 (3) for which a certificate of crossing for the
5 cross-border segment of the pipeline or facility has
6 previously been issued under section 3.

7 **SEC. 8. EFFECTIVE DATE; RULEMAKING DEADLINES.**

8 (a) **EFFECTIVE DATE.**—Sections 3 through 7, and
9 the amendments made by such sections, shall take effect
10 on July 1, 2015.

11 (b) **RULEMAKING DEADLINES.**—Each relevant official
12 described in section 3(b)(2) shall—

13 (1) not later than 180 days after the date of
14 enactment of this Act, publish in the Federal Register
15 notice of a proposed rulemaking to carry out
16 the applicable requirements of section 3; and

17 (2) not later than 1 year after the date of enactment
18 of this Act, publish in the Federal Register
19 a final rule to carry out the applicable requirements
20 of section 3.

21 **SEC. 9. DEFINITIONS.**

22 In this Act—

23 (1) the term “cross-border segment” means the
24 portion of an oil or natural gas pipeline or electric
25 transmission facility that is located at the national

1 boundary of the United States with either Canada or
2 Mexico;

3 (2) the term “modification” includes a change
4 in ownership, volume expansion, downstream or up-
5 stream interconnection, or adjustment to maintain
6 flow (such as a reduction or increase in the number
7 of pump or compressor stations);

8 (3) the term “natural gas” has the meaning
9 given that term in section 2 of the Natural Gas Act
10 (15 U.S.C. 717a);

11 (4) the term “oil” means petroleum or a petro-
12 leum product;

13 (5) the terms “Electric Reliability Organiza-
14 tion” and “regional entity” have the meanings given
15 those terms in section 215 of the Federal Power Act
16 (16 U.S.C. 824o); and

17 (6) the terms “Independent System Operator”
18 and “Regional Transmission Organization” have the
19 meanings given those terms in section 3 of the Fed-
20 eral Power Act (16 U.S.C. 796).

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