

114TH CONGRESS
1ST SESSION

S. 848

To clarify that compliance with an emergency order under the Federal Power Act may not be considered a violation of any Federal, State, or local environmental law or regulation, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 24, 2015

Mrs. McCASKILL (for herself and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To clarify that compliance with an emergency order under 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Resolving Environ-
5 mental and Grid Reliability Conflicts Act of 2015”.

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

7 (a) COMPLIANCE WITH OR VIOLATION OF ENVIRON-
8 MENTAL LAWS WHILE UNDER EMERGENCY ORDER.—

1 Section 202(c) of the Federal Power Act (16 U.S.C.
2 824a(c)) is amended—

3 (1) in the first sentence, by striking “(c) Dur-
4 ing” and inserting the following:

5 “(c) AUTHORIZATION DURING WAR OR EMER-
6 GENCY.—

7 “(1) IN GENERAL.—During”; and

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

9 “(2) LIMITATION AS RESULT OF CONFLICT
10 WITH ENVIRONMENTAL LAW.—With respect to an
11 order issued under this subsection that may result in
12 a conflict with a requirement of any Federal, State,
13 or local environmental law (including regulations),
14 the Commission shall ensure that the order—

15 “(A) requires generation, delivery, inter-
16 change, or transmission of electric energy only
17 during hours necessary to meet the emergency
18 and serve the public interest; and

19 “(B) to the maximum extent practicable—

20 “(i) is consistent with any applicable
21 Federal, State, or local environmental law
22 (including regulations); and

23 “(ii) minimizes any adverse environ-
24 mental impacts.

1 “(3) COMPLIANCE NOT CONSIDERED VIOLATION
 2 OF OTHER LAW.—To the extent that any omission
 3 or action taken by a party that is necessary to com-
 4 ply with an order issued under this subsection, in-
 5 cluding any omission or action taken to voluntarily
 6 comply with the order, results in noncompliance
 7 with, or causes the party to not comply with, any
 8 Federal, State, or local environmental law (including
 9 regulations), the omission or action shall not—

10 “(A) be considered a violation of that envi-
 11 ronmental law (including regulations); or

12 “(B) subject the party to any requirement,
 13 civil or criminal liability, or a citizen suit under
 14 that environmental law or regulation.

15 “(4) EXPIRATION OF ORDER; RENEWAL.—

16 “(A) EXPIRATION.—An order issued under
 17 this subsection that may result in a conflict as
 18 described in paragraph (3) shall expire not later
 19 than 90 days after that order is issued.

20 “(B) RENEWAL.—The Commission may
 21 renew or reissue an order described in subpara-
 22 graph (A) pursuant to paragraphs (1) and (2)
 23 for subsequent periods, not to exceed 90 days
 24 for each period, as the Commission determines

1 necessary to meet the emergency and serve the
2 public interest.

3 “(C) CONSULTATION.—In renewing or re-
4 issuing an order under subparagraph (A) or
5 (B), the Commission—

6 “(i) shall consult with the primary
7 Federal agency with expertise in the envi-
8 ronmental interest protected by the law or
9 regulation in conflict; and

10 “(ii)(I) shall include in any renewed
11 or reissued order such conditions as that
12 Federal agency determines necessary to
13 minimize any adverse environmental im-
14 pacts to the maximum extent practicable;
15 or

16 “(II) may exclude from the renewed
17 or reissued order any condition if the Com-
18 mission—

19 “(aa) determines the condition
20 would prevent the order from ade-
21 quately addressing the emergency ne-
22 cessitating the order; and

23 “(bb) provides in the order, or
24 otherwise makes publicly available, an
25 explanation of that determination.

1 “(D) PUBLIC AVAILABILITY.—Any condi-
2 tions submitted by the Federal agency under
3 subparagraph (C)(ii) shall be made available to
4 the public.

5 “(5) EFFECT OF COURT ACTION.—If an order
6 issued under this subsection is subsequently stayed,
7 modified, or set aside by a court pursuant to section
8 313 or any other provision of law, any omission or
9 action previously taken by a party that was nec-
10 essary to comply with the order while the order was
11 in effect, including any omission or action taken to
12 voluntarily comply with the order, shall remain sub-
13 ject to paragraph (3).”.

14 (b) TEMPORARY CONNECTION OR CONSTRUCTION BY
15 MUNICIPALITIES.—Section 202(d) of the Federal Power
16 Act (16 U.S.C. 824a(d)) is amended in the matter pre-
17 ceding the first proviso by inserting “or municipality” be-
18 fore “engaged in the transmission or sale of electric en-
19 ergy”.

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