

115TH CONGRESS
1ST SESSION

H. R. 2883

IN THE SENATE OF THE UNITED STATES

JULY 20, 2017

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To establish a more uniform, transparent, and modern process to authorize the construction, connection, operation, and maintenance of international border-crossing facilities for the import and export of oil and natural gas and the transmission of electricity.

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 “Promoting Cross-Bor-
3 der Energy Infrastructure Act”.

4 **SEC. 2. APPROVAL FOR BORDER-CROSSING FACILITIES.**

5 (a) AUTHORIZATION OF CERTAIN ENERGY INFRA-
6 STRUCTURE PROJECTS AT AN INTERNATIONAL BOUND-
7 ARY OF THE UNITED STATES.—

8 (1) AUTHORIZATION.—Except as provided in
9 paragraph (3) and subsection (e), no person may
10 construct, connect, operate, or maintain a border-
11 crossing facility for the import or export of oil or
12 natural gas, or the transmission of electricity, across
13 an international border of the United States without
14 obtaining a certificate of crossing for the border-
15 crossing facility under this subsection.

16 (2) CERTIFICATE OF CROSSING.—

17 (A) REQUIREMENT.—Not later than 120
18 days after final action is taken, by the relevant
19 official or agency identified under subparagraph
20 (B), under the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4321 et seq.) with re-
22 spect to a border-crossing facility for which a
23 person requests a certificate of crossing under
24 this subsection, the relevant official or agency,
25 in consultation with appropriate Federal agen-
26 cies, shall issue a certificate of crossing for the

border-crossing facility unless the relevant official or agency finds that the construction, connection, operation, or maintenance of the border-crossing facility is not in the public interest of the United States.

(B) RELEVANT OFFICIAL OR AGENCY.—

The relevant official or agency referred to in subparagraph (A) is—

(i) the Federal Energy Regulatory Commission with respect to border-crossing facilities consisting of oil or natural gas pipelines; and

(ii) the Secretary of Energy with respect to border-crossing facilities consisting of electric transmission facilities.

(C) ADDITIONAL REQUIREMENT FOR

ELECTRIC TRANSMISSION FACILITIES.—In the case of a request for a certificate of crossing for a border-crossing facility consisting of an electric transmission facility, the Secretary of Energy shall require, as a condition of issuing the certificate of crossing under subparagraph (A), that the border-crossing facility be constructed, connected, operated, or maintained consistent with all applicable policies and standards of—

- 1 (i) the Electric Reliability Organiza-
2 tion and the applicable regional entity; and
3 (ii) any Regional Transmission Orga-
4 nization or Independent System Operator
5 with operational or functional control over
6 the border-crossing facility.

7 (3) EXCLUSIONS.—This subsection shall not
8 apply to any construction, connection, operation, or
9 maintenance of a border-crossing facility for the im-
10 port or export of oil or natural gas, or the trans-
11 mission of electricity—

12 (A) if the border-crossing facility is oper-
13 ating for such import, export, or transmission
14 as of the date of enactment of this Act;

15 (B) if a permit described in subsection (d)
16 for the construction, connection, operation, or
17 maintenance has been issued; or

18 (C) if an application for a permit described
19 in subsection (d) for the construction, connec-
20 tion, operation, or maintenance is pending on
21 the date of enactment of this Act, until the ear-
22 lier of—

- 23 (i) the date on which such application
24 is denied; or

1 (ii) two years after the date of enact-
2 ment of this Act, if such a permit has not
3 been issued by such date.

4 (4) EFFECT OF OTHER LAWS.—

5 (A) APPLICATION TO PROJECTS.—Nothing
6 in this subsection or subsection (e) shall affect
7 the application of any other Federal statute to
8 a project for which a certificate of crossing for
9 a border-crossing facility is requested under
10 this subsection.

11 (B) NATURAL GAS ACT.—Nothing in this
12 subsection or subsection (e) shall affect the re-
13 quirement to obtain approval or authorization
14 under sections 3 and 7 of the Natural Gas Act
15 for the siting, construction, or operation of any
16 facility to import or export natural gas.

17 (C) OIL PIPELINES.—Nothing in this sub-
18 section or subsection (e) shall affect the author-
19 ity of the Federal Energy Regulatory Commis-
20 sion with respect to oil pipelines under section
21 60502 of title 49, United States Code.

22 (D) SCOPE OF NEPA REVIEW.—Nothing in
23 this Act, or the amendments made by this Act,
24 shall affect the scope of any review required to
25 be conducted under section 102 of the National

1 Environmental Policy Act of 1969 with respect
2 to a project for which a certificate of crossing
3 for a border-crossing facility is requested under
4 this subsection.

5 (b) IMPORTATION OR EXPORTATION OF NATURAL
6 GAS TO CANADA AND MEXICO.—Section 3(c) of the Nat-
7 ural Gas Act (15 U.S.C. 717b(c)) is amended by adding
8 at the end the following: “In the case of an application
9 for the importation of natural gas from, or the exportation
10 of natural gas to, Canada or Mexico, the Commission shall
11 grant the application not later than 30 days after the date
12 on which the Commission receives the complete applica-
13 tion.”.

14 (c) TRANSMISSION OF ELECTRIC ENERGY TO CAN-
15 ADA AND MEXICO.—

16 (1) REPEAL OF REQUIREMENT TO SECURE
17 ORDER.—Section 202(e) of the Federal Power Act
18 (16 U.S.C. 824a(e)) is repealed.

19 (2) CONFORMING AMENDMENTS.—

20 (A) STATE REGULATIONS.—Section 202(f)
21 of the Federal Power Act (16 U.S.C. 824a(f))
22 is amended by striking “insofar as such State
23 regulation does not conflict with the exercise of
24 the Commission’s powers under or relating to
25 subsection 202(e)”.

1 (B) SEASONAL DIVERSITY ELECTRICITY
2 EXCHANGE.—Section 602(b) of the Public Util-
3 ity Regulatory Policies Act of 1978 (16 U.S.C.
4 824a–4(b)) is amended by striking “the Com-
5 mission has conducted hearings and made the
6 findings required under section 202(e) of the
7 Federal Power Act” and all that follows
8 through the period at the end and inserting
9 “the Secretary has conducted hearings and
10 finds that the proposed transmission facilities
11 would not impair the sufficiency of electric sup-
12 ply within the United States or would not im-
13 pede or tend to impede the coordination in the
14 public interest of facilities subject to the juris-
15 diction of the Secretary.”.

16 (d) NO PRESIDENTIAL PERMIT REQUIRED.—No
17 Presidential permit (or similar permit) required under Ex-
18 ecutive Order No. 13337 (3 U.S.C. 301 note), Executive
19 Order No. 11423 (3 U.S.C. 301 note), section 301 of title
20 3, United States Code, Executive Order No. 12038, Exec-
21 utive Order No. 10485, or any other Executive order shall
22 be necessary for the construction, connection, operation,
23 or maintenance of an oil or natural gas pipeline or electric
24 transmission facility, or any border-crossing facility there-
25 of.

1 (e) MODIFICATIONS TO EXISTING PROJECTS.—No
 2 certificate of crossing under subsection (a), or permit de-
 3 scribed in subsection (d), shall be required for a modifica-
 4 tion to—

5 (1) an oil or natural gas pipeline or electric
 6 transmission facility that is operating for the import
 7 or export of oil or natural gas or the transmission
 8 of electricity as of the date of enactment of this Act;

9 (2) an oil or natural gas pipeline or electric
 10 transmission facility for which a permit described in
 11 subsection (d) has been issued; or

12 (3) a border-crossing facility for which a certifi-
 13 cate of crossing has previously been issued under
 14 subsection (a).

15 (f) EFFECTIVE DATE; RULEMAKING DEADLINES.—

16 (1) EFFECTIVE DATE.—Subsections (a)
 17 through (e), and the amendments made by such sub-
 18 sections, shall take effect on the date that is 1 year
 19 after the date of enactment of this Act.

20 (2) RULEMAKING DEADLINES.—Each relevant
 21 official or agency described in subsection (a)(2)(B)
 22 shall—

23 (A) not later than 180 days after the date
 24 of enactment of this Act, publish in the Federal
 25 Register notice of a proposed rulemaking to

1 carry out the applicable requirements of sub-
2 section (a); and

3 (B) not later than 1 year after the date of
4 enactment of this Act, publish in the Federal
5 Register a final rule to carry out the applicable
6 requirements of subsection (a).

7 (g) DEFINITIONS.—In this section—

8 (1) the term “border-crossing facility” means
9 the portion of an oil or natural gas pipeline or elec-
10 tric transmission facility that is located at an inter-
11 national boundary of the United States;

12 (2) the term “modification” includes a reversal
13 of flow direction, change in ownership, change in
14 flow volume, addition or removal of an interconnec-
15 tion, or an adjustment to maintain flow (such as a
16 reduction or increase in the number of pump or
17 compressor stations);

18 (3) the term “natural gas” has the meaning
19 given that term in section 2 of the Natural Gas Act
20 (15 U.S.C. 717a);

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

23 (5) the terms “Electric Reliability Organiza-
24 tion” and “regional entity” have the meanings given

1 those terms in section 215 of the Federal Power Act
2 (16 U.S.C. 824o); and

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

Passed the House of Representatives July 19, 2017.

Attest:

KAREN L. HAAS,

Clerk.