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111TH CONGRESS
1ST SESSION

H. R. 71

To amend the Federal Power Act to provide for enforcement, including criminal penalties, by the Federal Energy Regulatory Commission of electric reliability standards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To amend the Federal Power Act to provide for enforcement, including criminal penalties, by the Federal Energy Regulatory Commission of electric reliability standards, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Save America's Utility Infrastructure and Secure America Now Act of 2009''.

SEC. 2. FINDINGS.

The Congress finds that:

(1) The blackout of August 2003 in the Northeast, Midwest, and adjoining parts of Canada highlighted the need for infrastructure and operating improvements.

(2) In 2005 Hurricane Wilma destroyed power in most of southern Florida, and within 6 months, Florida utility regulators inserted requirements that utilities harden their system over time and create a regular schedule of clearing vegetation from power lines to ensure electric reliability.

(3) In Iowa, in 2008, over two dozen people were killed and 148 injured as a result of flooding. Flood warnings covered a span of about 325 miles from Dubuque, Iowa to St. Louis, Missouri with over 35,000 families evacuated from their homes.

(4) The devastation from Hurricane Katrina and its calamitous results can still be seen across the Gulf Coast. Hurricane Katrina cost over 1,800 lives, billions of dollars in damage and catastrophic loss and the largest single loss in the history of insurance at $40.6 billion with more than 1.7 million claims across 6 States (Louisiana, Mississippi, Alabama, Florida, Tennessee, and Georgia).

(5) Early estimates of Hurricane Ike's destruction are $9.8 billion in insured damages, which

would make it the 4th most expensive hurricane in the history of the United States, according to the Insurance Information Institute. Hurricane Katrina caused $43 billion in damages.

(6) Cedric Delane passed away September 14, 2008, due in part to a lack of electricity and not being identified as part of the vulnerable class of people that needed assistance immediately. Cedric was a 5th grade student at Blackshear Elementary in Houston, Texas. Cedric was an asthmatic and suffered a severe attack during Hurricane Ike. The lack of electrical power prevented the use of his breathing machine, which could possibly have saved his life. The paramedics were called and Cedric was transported to the hospital, but he did not survive.

(7) There have been more than 370,000 overnight shelter stays, over 8.77 million meals served, and over 190,000 clean-up kits and comfort kits distributed in the Houston-Galveston area of Texas after Hurricanes Gustav and Ike.

(8) The Texas Public Utility Commissioners did not require electric companies on the coast to ensure reliability in their distribution systems against hurricanes after the Texas Public Utility Commission staff recommended aggressive tree-trimming pro-

grams and major upgrades, including replacing wooden electric poles with metal or concrete poles in 2005 after Hurricane Rita.

(9) Texas Public utility companies fought the recommendations on the grounds that upgrading the distribution system would cost far more than repairing it after a storm, however the Texas Public Utility Commission ordered a cost-benefit analysis of only one recommendation: moving electric substations out of flood zones.

(10) There were 28 Houston-area deaths attributed to Hurricane Ike with over a half a million people without electrical power for more than a week including many elderly, disabled, and medically-dependent persons.

(11) Without criminal enforcement of reliability standards with penalties by FERC and cost-benefit studies that include United States Census and Federal Emergency Management Agency data on vulnerable populations and loss of electricity on those populations, greater loss of property and life will occur.

SEC. 3. FERC ENFORCEMENT AUTHORITY.

Section 215(e) of the Federal Power Act (16 U.S.C. 824o) is amended as follows:

(1) In paragraph (1) by striking ''ERO may impose, subject to paragraph (2),'' and inserting ''Commission may impose'' and by striking ''if the ERO'' and inserting ''if the Commission''.

(2) Paragraph (2) is amended to read as follows:

''(2) Any person who violates any standard approved by the Commission under subsection (d) shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned not more than 5 years, or both.''.

(3) Paragraph (4) is repealed.

(4) In paragraph (6) by striking ''penalty imposed under this section'' and inserting ''civil penalty imposed under paragraph (1) of this section''.

SEC. 4. DISTURBANCES LASTING LONGER THAN 5 DAYS.

Within 180 days after the enactment of this Act the Federal Energy Regulatory Commission shall issue a rule under section 215 of the Federal Power Act amending the reliability standards under that section to prohibit disturbances (other than planned maintenance) lasting greater than 5 days at substations subject to section 215.

SEC. 5. STUDY AND REPORT ON EMERGENCY PLANNING PREPAREDNESS FOR VULNERABLE POPULATIONS.

(a) STUDY.—The Secretary of the Department of Homeland Security, acting through the Assistant Secretary of the Office of the Infrastructure Protection, shall conduct a study to examine gaps in emergency planning preparedness and management as related to vulnerable populations including—

(1) individuals with physical and mental disabilities, visual impairments, hearing impairments, limited English proficiency, and literacy barriers;

(2) socially and economically disadvantaged households and communities;

(3) individuals over 65 years old;

(4) minor children; and

(5) individuals with pets or service animals.

(b) REPORT.—Not later than one year after the date of the enactment of this Act the Secretary of the Department of Homeland Security, acting through the Assistant Secretary of the Office of the Infrastructure Protection, shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Homeland Security and Governmental Affairs of the Sen-

1 ate a report containing the results of the study under sub-
2 section (a) and any recommendations of the Secretary.

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