AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

IB

Union Calendar No. 425

112TH CONGRESS
2D SESSION

H. R. 4273

[Report No. 112–586]

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.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2012

Mr. OLSON (for himself, Mr. DOYLE, Mr. TERRY, Mr. GENE GREEN of Texas, Mr. KINZINGER of Illinois, and Mr. GONZALEZ) introduced the following bill; which was referred to the Committee on Energy and Commerce

JULY 9, 2012

Additional sponsors: Mr. BARTON of Texas, Mr. COSTELLO, Mr. OWENS, Mr. LATTA, Mr. LONG, Mr. SULLIVAN, Mr. CANSECO, Mr. LANKFORD, Mr. BARROW, Mr. WHITFIELD, Mr. POMPEO, Mr. GINGREY of Georgia, and Mr. MURPHY of Pennsylvania

JULY 9, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

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.

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 "Resolving Environmental and Grid Reliability Conflicts Act of 2012".~~

~~SEC. 2. AMENDMENTS TO THE FEDERAL POWER ACT.~~

~~(a) COMPLIANCE WITH OR VIOLATION OF ENVIRONMENTAL LAWS WHILE UNDER EMERGENCY ORDER.—Section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) is amended—~~

~~(1) by inserting "(1)" after "(c)"; and~~

~~(2) by adding at the end the following: "An order issued under this section should require generation, delivery, interchange, or transmission of electric energy only during times necessary to meet the emergency and serve the public interest, and, to the extent reasonable, be consistent with any other applicable Federal law, including any environmental law or regulation, and endeavor to minimize any adverse environmental impacts.~~

~~"(2)(A) To the extent any omission or action taken by a party, which is necessary to comply with an order issued under paragraph (1), including any omission or action taken to voluntarily comply with such order, results in noncompliance with, or causes such party to not comply~~

~~with, any Federal, State, or local environmental law or regulation, such omission or action shall not be considered a violation of such environmental law or regulation, or subject such party to any requirement, civil or criminal liability, or a citizen suit under such environmental law or regulation.~~

~~"(B) In this paragraph, the term 'environmental law' does not include the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).".~~

~~(b) TEMPORARY CONNECTION OR CONSTRUCTION BY MUNICIPALITIES.—Section 202(d) of the Federal Power Act (16 U.S.C. 824a(d)) is amended by inserting "or municipality" before "engaged in the transmission or sale of electric energy".~~

SECTION 1. SHORT TITLE.

This Act may be cited as the "Resolving Environmental and Grid Reliability Conflicts Act of 2012".

SEC. 2. AMENDMENTS TO THE FEDERAL POWER ACT.

(a) COMPLIANCE WITH OR VIOLATION OF ENVIRONMENTAL LAWS WHILE UNDER EMERGENCY ORDER.—Section 202(c) of the Federal Power Act (16 U.S.C. 824a(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2) With respect to an order issued under this subsection that may result in a conflict with a requirement of any Federal, State, or local environmental law or regulation, the Commission shall ensure that such order requires generation, delivery, interchange, or transmission of electric energy only during hours necessary to meet the emergency and serve the public interest, and, to the maximum extent practicable, is consistent with any applicable Federal, State, or local environmental law or regulation and minimizes any adverse environmental impacts.

"(3) To the extent any omission or action taken by a party, that is necessary to comply with an order issued under this subsection, including any omission or action taken to voluntarily comply with such order, results in noncompliance with, or causes such party to not comply with, any Federal, State, or local environmental law or regulation, such omission or action shall not be considered a violation of such environmental law or regulation, or subject such party to any requirement, civil or criminal liability, or a citizen suit under such environmental law or regulation.

"(4)(A) An order issued under this subsection that may result in a conflict with a requirement of any Federal, State, or local environmental law or regulation shall expire not later than 90 days after it is issued. The Commission

may renew or reissue such order pursuant to paragraphs (1) and (2) for subsequent periods, not to exceed 90 days for each period, as the Commission determines necessary to meet the emergency and serve the public interest.

"(B) In renewing or reissuing an order under subparagraph (A), the Commission shall consult with the primary Federal agency with expertise in the environmental interest protected by such law or regulation, and shall include in any such renewed or reissued order such conditions as such Federal agency determines necessary to minimize any adverse environmental impacts to the maximum extent practicable. The conditions, if any, submitted by such Federal agency shall be made available to the public. The Commission may exclude such a condition from the renewed or reissued order if it determines that such condition would prevent the order from adequately addressing the emergency necessitating such order and provides in the order, or otherwise makes publicly available, an explanation of such determination.".

(b) TEMPORARY CONNECTION OR CONSTRUCTION BY MUNICIPALITIES.—Section 202(d) of the Federal Power Act (16 U.S.C. 824a(d)) is amended by inserting "or municipality" before "engaged in the transmission or sale of electric energy".

Union Calendar No. 425

112TH CONGRESS
2D SESSION

H. R. 4273

[Report No. 112–586]

A BILL

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.

JULY 9, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed