

Union Calendar No. 160

115TH CONGRESS
1ST SESSION

H. R. 2883

[Report No. 115–225, Part I]

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.

IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2017

Mr. MULLIN (for himself and Mr. GENE GREEN of Texas) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Transportation and Infrastructure, and Natural Resources, 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

JULY 17, 2017

Additional sponsor: Mr. SESSIONS

JULY 17, 2017

Reported from the Committee on Energy and Commerce with an amendment

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

JULY 17, 2017

The Committees on Transportation and Infrastructure and Natural Resources discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on June 12, 2017]

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Promoting Cross-Border*
 5 *Energy Infrastructure Act”.*

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

7 *(a) AUTHORIZATION OF CERTAIN ENERGY INFRA-*
 8 *STRUCTURE PROJECTS AT AN INTERNATIONAL BOUNDARY*
 9 *OF THE UNITED STATES.—*

10 *(1) AUTHORIZATION.—Except as provided in*
 11 *paragraph (3) and subsection (e), no person may con-*
 12 *struct, connect, operate, or maintain a border-crossing*
 13 *facility for the import or export of oil or natural gas,*
 14 *or the transmission of electricity, across an inter-*
 15 *national border of the United States without obtain-*
 16 *ing a certificate of crossing for the border-crossing fa-*
 17 *cility under this subsection.*

18 *(2) CERTIFICATE OF CROSSING.—*

19 *(A) REQUIREMENT.—Not later than 120*
 20 *days after final action is taken, by the relevant*
 21 *official or agency identified under subparagraph*
 22 *(B), under the National Environmental Policy*
 23 *Act of 1969 (42 U.S.C. 4321 et seq.) with respect*
 24 *to a border-crossing facility for which a person*
 25 *requests a certificate of crossing under this sub-*

1 *section, the relevant official or agency, in con-*
2 *sultation with appropriate Federal agencies,*
3 *shall issue a certificate of crossing for the border-*
4 *crossing facility unless the relevant official or*
5 *agency finds that the construction, connection,*
6 *operation, or maintenance of the border-crossing*
7 *facility is not in the public interest of the United*
8 *States.*

9 *(B) RELEVANT OFFICIAL OR AGENCY.—The*
10 *relevant official or agency referred to in sub-*
11 *paragraph (A) is—*

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

16 *(ii) the Secretary of Energy with re-*
17 *spect to border-crossing facilities consisting*
18 *of electric transmission facilities.*

19 *(C) ADDITIONAL REQUIREMENT FOR ELEC-*
20 *TRIC TRANSMISSION FACILITIES.—In the case of*
21 *a request for a certificate of crossing for a bor-*
22 *der-crossing facility consisting of an electric*
23 *transmission facility, the Secretary of Energy*
24 *shall require, as a condition of issuing the cer-*
25 *tificate of crossing under subparagraph (A), that*

1 *the border-crossing facility be constructed, con-*
2 *ected, operated, or maintained consistent with*
3 *all applicable policies and standards of—*

4 *(i) the Electric Reliability Organiza-*
5 *tion and the applicable regional entity; and*

6 *(ii) any Regional Transmission Orga-*
7 *nization or Independent System Operator*
8 *with operational or functional control over*
9 *the border-crossing facility.*

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

15 *(A) if the border-crossing facility is oper-*
16 *ating for such import, export, or transmission as*
17 *of the date of enactment of this Act;*

18 *(B) if a permit described in subsection (d)*
19 *for the construction, connection, operation, or*
20 *maintenance has been issued; or*

21 *(C) if an application for a permit described*
22 *in subsection (d) for the construction, connection,*
23 *operation, or maintenance is pending on the*
24 *date of enactment of this Act, until the earlier*
25 *of—*

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

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

6 (4) *EFFECT OF OTHER LAWS.*—

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

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

19 (C) *OIL PIPELINES.*—Nothing in this sub-
20 section or subsection (e) shall affect the authority
21 of the Federal Energy Regulatory Commission
22 with respect to oil pipelines under section 60502
23 of title 49, United States Code.

24 (b) *IMPORTATION OR EXPORTATION OF NATURAL GAS*
25 *TO CANADA AND MEXICO.*—Section 3(c) of the Natural Gas

1 *Act (15 U.S.C. 717b(c)) is amended by adding at the end*
 2 *the following: “In the case of an application for the impor-*
 3 *tation of natural gas from, or the exportation of natural*
 4 *gas to, Canada or Mexico, the Commission shall grant the*
 5 *application not later than 30 days after the date on which*
 6 *the Commission receives the complete application.”.*

7 *(c) TRANSMISSION OF ELECTRIC ENERGY TO CANADA*
 8 *AND MEXICO.—*

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

12 *(2) CONFORMING AMENDMENTS.—*

13 *(A) STATE REGULATIONS.—Section 202(f)*
 14 *of the Federal Power Act (16 U.S.C. 824a(f)) is*
 15 *amended by striking “insofar as such State regu-*
 16 *lation does not conflict with the exercise of the*
 17 *Commission’s powers under or relating to sub-*
 18 *section 202(e)”.*

19 *(B) SEASONAL DIVERSITY ELECTRICITY EX-*
 20 *CHANGE.—Section 602(b) of the Public Utility*
 21 *Regulatory Policies Act of 1978 (16 U.S.C.*
 22 *824a–4(b)) is amended by striking “the Commis-*
 23 *sion has conducted hearings and made the find-*
 24 *ings required under section 202(e) of the Federal*
 25 *Power Act” and all that follows through the pe-*

1 riod at the end and inserting “the Secretary has
 2 conducted hearings and finds that the proposed
 3 transmission facilities would not impair the suf-
 4 ficiency of electric supply within the United
 5 States or would not impede or tend to impede
 6 the coordination in the public interest of facili-
 7 ties subject to the jurisdiction of the Secretary.”.

8 (d) *NO PRESIDENTIAL PERMIT REQUIRED.*—No Presi-
 9 dential permit (or similar permit) required under Execu-
 10 tive Order No. 13337 (3 U.S.C. 301 note), Executive Order
 11 No. 11423 (3 U.S.C. 301 note), section 301 of title 3, United
 12 States Code, Executive Order No. 12038, Executive Order
 13 No. 10485, or any other Executive order shall be necessary
 14 for the construction, connection, operation, or maintenance
 15 of an oil or natural gas pipeline or electric transmission
 16 facility, or any border-crossing facility thereof.

17 (e) *MODIFICATIONS TO EXISTING PROJECTS.*—No cer-
 18 tificate of crossing under subsection (a), or permit described
 19 in subsection (d), shall be required for a modification to—

20 (1) an oil or natural gas pipeline or electric
 21 transmission facility that is operating for the import
 22 or export of oil or natural gas or the transmission of
 23 electricity as of the date of enactment of this Act;

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

4 (3) *a border-crossing facility for which a certifi-*
 5 *cate of crossing has previously been issued under sub-*
 6 *section (a).*

7 (f) *EFFECTIVE DATE; RULEMAKING DEADLINES.—*

8 (1) *EFFECTIVE DATE.—Subsections (a) through*
 9 *(e), and the amendments made by such subsections,*
 10 *shall take effect on the date that is 1 year after the*
 11 *date of enactment of this Act.*

12 (2) *RULEMAKING DEADLINES.—Each relevant of-*
 13 *ficial or agency described in subsection (a)(2)(B)*
 14 *shall—*

15 (A) *not later than 180 days after the date*
 16 *of enactment of this Act, publish in the Federal*
 17 *Register notice of a proposed rulemaking to*
 18 *carry out the applicable requirements of sub-*
 19 *section (a); and*

20 (B) *not later than 1 year after the date of*
 21 *enactment of this Act, publish in the Federal*
 22 *Register a final rule to carry out the applicable*
 23 *requirements of subsection (a).*

24 (g) *DEFINITIONS.—In this section—*

1 (1) the term “border-crossing facility” means the
2 portion of an oil or natural gas pipeline or electric
3 transmission facility that is located at an inter-
4 national boundary of the United States;

5 (2) the term “modification” includes a reversal
6 of flow direction, change in ownership, change in flow
7 volume, addition or removal of an interconnection, or
8 an adjustment to maintain flow (such as a reduction
9 or increase in the number of pump or compressor sta-
10 tions);

11 (3) the term “natural gas” has the meaning
12 given that term in section 2 of the Natural Gas Act
13 (15 U.S.C. 717a);

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

16 (5) the terms “Electric Reliability Organization”
17 and “regional entity” have the meanings given those
18 terms in section 215 of the Federal Power Act (16
19 U.S.C. 824o); and

20 (6) the terms “Independent System Operator”
21 and “Regional Transmission Organization” have the
22 meanings given those terms in section 3 of the Federal
23 Power Act (16 U.S.C. 796).

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