

115TH CONGRESS
1ST SESSION

H. R. 2883

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

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-Bor-
5 der Energy Infrastructure Act”.

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

2 (a) AUTHORIZATION OF CERTAIN ENERGY INFRA-
3 STRUCTURE PROJECTS AT AN INTERNATIONAL BOUND-
4 ARY OF THE UNITED STATES.—

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

13 (2) CERTIFICATE OF CROSSING.—

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

der-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—

(i) the Electric Reliability Organization and the applicable regional entity; and

1 (ii) any Regional Transmission Orga-
2 nization or Independent System Operator
3 with operational or functional control over
4 the border-crossing facility.

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

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

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

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

21 (i) the date on which such application
22 is denied; or

23 (ii) two years after the date of enact-
24 ment of this Act, if such a permit has not
25 been issued by such date of enactment.

1 (4) EFFECT OF OTHER LAWS.—

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

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

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

19 (b) IMPORTATION OR EXPORTATION OF NATURAL
20 GAS TO CANADA AND MEXICO.—Section 3(c) of the Nat-
21 ural Gas Act (15 U.S.C. 717b(c)) is amended by adding
22 at the end the following: “In the case of an application
23 for the importation of natural gas from, or the exportation
24 of natural gas to, Canada or Mexico, the Commission shall
25 grant the application not later than 30 days after the date

1 on which the Commission receives the complete applica-
2 tion.”.

3 (c) TRANSMISSION OF ELECTRIC ENERGY TO CAN-
4 ADA AND MEXICO.—

5 (1) REPEAL OF REQUIREMENT TO SECURE
6 ORDER.—Section 202(e) of the Federal Power Act
7 (16 U.S.C. 824a(e)) is repealed.

8 (2) CONFORMING AMENDMENTS.—

9 (A) STATE REGULATIONS.—Section 202(f)
10 of the Federal Power Act (16 U.S.C. 824a(f))
11 is amended by striking “insofar as such State
12 regulation does not conflict with the exercise of
13 the Commission’s powers under or relating to
14 subsection 202(e)”.

15 (B) SEASONAL DIVERSITY ELECTRICITY
16 EXCHANGE.—Section 602(b) of the Public Util-
17 ity Regulatory Policies Act of 1978 (16 U.S.C.
18 824a–4(b)) is amended by striking “the Com-
19 mission has conducted hearings and made the
20 findings required under section 202(e) of the
21 Federal Power Act” and all that follows
22 through the period at the end and inserting
23 “the Secretary has conducted hearings and
24 finds that the proposed transmission facilities
25 would not impair the sufficiency of electric sup-

1 ply within the United States or would not im-
2 pede or tend to impede the coordination in the
3 public interest of facilities subject to the juris-
4 diction of the Secretary.”.

5 (d) NO PRESIDENTIAL PERMIT REQUIRED.—No
6 Presidential permit (or similar permit) required under Ex-
7 ecutive Order No. 13337 (3 U.S.C. 301 note), Executive
8 Order No. 11423 (3 U.S.C. 301 note), section 301 of title
9 3, United States Code, Executive Order No. 12038, Exec-
10 utive Order No. 10485, or any other Executive order shall
11 be necessary for the construction, connection, operation,
12 or maintenance of an oil or natural gas pipeline or electric
13 transmission facility, or any border-crossing facility there-
14 of.

15 (e) MODIFICATIONS TO EXISTING PROJECTS.—No
16 certificate of crossing under subsection (a), or permit de-
17 scribed in subsection (d), shall be required for a modifica-
18 tion to—

19 (1) an oil or natural gas pipeline or electric
20 transmission facility that is operating for the import
21 or export of oil or natural gas or the transmission
22 of electricity as of the date of enactment of this Act;
23 (2) an oil or natural gas pipeline or electric
24 transmission facility for which a permit described in
25 subsection (d) has been issued; or

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

4 (f) EFFECTIVE DATE; RULEMAKING DEADLINES.—

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

9 (2) RULEMAKING DEADLINES.—Each relevant
10 official or agency described in subsection (a)(2)(B)
11 shall—

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

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

21 (g) DEFINITIONS.—In this section—

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

1 (2) the term “modification” includes a reversal
2 of flow direction, change in ownership, change in
3 flow volume, addition or removal of an interconnec-
4 tion, or an adjustment to maintain flow (such as a
5 reduction or increase in the number of pump or
6 compressor stations);

7 (3) the term “natural gas” has the meaning
8 given that term in section 2 of the Natural Gas Act
9 (15 U.S.C. 717a);

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

12 (5) the terms “Electric Reliability Organiza-
13 tion” and “regional entity” have the meanings given
14 those terms in section 215 of the Federal Power Act
15 (16 U.S.C. 824o); and

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

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