

118TH CONGRESS
2D SESSION

H. R. 10068

To amend the Federal Power Act to require generating facilities to provide advance notices for retiring electric generating units, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 29, 2024

Mr. GRIFFITH introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Power Act to require generating facilities to provide advance notices for retiring electric generating units, and for other purposes.

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. FURNISHING OF ADEQUATE SERVICE; RETIR-**
4 **ING ELECTRIC GENERATING UNITS.**

5 Section 207 of the Federal Power Act (16 U.S.C.
6 824f) is amended to read as follows:

7 **“SEC. 207. FURNISHING OF ADEQUATE SERVICE; ADVANCE**
8 **NOTICE OF PLANNED RETIREMENTS.**

9 **“(a) FURNISHING OF ADEQUATE SERVICE.—**

1 “(1) IN GENERAL.—Whenever the Commission,
2 upon complaint of a State commission, the Electric
3 Reliability Organization, or a transmission organiza-
4 tion, after notice to each State commission and pub-
5 lic utility affected and after opportunity for hearing
6 within 90 days of receipt of such complaint, finds
7 that any interstate service of any public utility is in-
8 adequate or insufficient, or is likely to become inad-
9 equate or insufficient within 5 years of receiving
10 such complaint, the Commission shall determine the
11 proper, adequate, or sufficient service to be fur-
12 nished, and shall fix the same by its order, rule or
13 regulation subject to the requirements in paragraph
14 (2).

15 “(2) REQUIREMENTS.—In issuing an order,
16 rule, or regulation pursuant to paragraph (1), the
17 Commission shall—

18 “(A) have no authority to—

19 “(i) compel the enlargement of appli-
20 cable generating facilities; or

21 “(ii) compel the applicable public util-
22 ity to sell or exchange electric energy when
23 to do so would impair its ability to render
24 adequate service to its customers;

1 “(B) determine which applicable public
2 utility or State commission will be required to
3 pay for additional costs associated with the con-
4 tinued operation of electric generating units or
5 the construction of additional facilities used for
6 the transmission of electric energy in interstate
7 commerce; and

8 “(C) establish cost-based compensation to
9 be paid to the electric generating units that will
10 continue to operate, and the appropriate com-
11 pensation and cost allocation for any new trans-
12 mission facilities.

13 “(3) EFFECTIVE DATES.—

14 “(A) IN GENERAL.—An order, rule, or reg-
15 ulation issued pursuant to paragraph (1) that
16 compels the operation of any electric generating
17 unit shall take effect for 5 years following the
18 date of issuance of such order, rule, or regula-
19 tion.

20 “(B) REQUEST FOR REISSUANCE.—Not
21 later than the date that is 180 days prior to the
22 date on which an order, rule, or regulation de-
23 scribed in subparagraph (A) expires, the Elec-
24 tric Reliability Organization or the applicable
25 State commission or transmission organization

1 may each request the Commission to reissue
2 such order, rule, or regulation.

3 “(C) REISSUANCE.—Not later than 10
4 days after the date on which the Commission
5 receives the request described in subparagraph
6 (B), the Commission shall—

7 “(i) notify each applicable State com-
8 mission, transmission organization, and
9 public utility and provide an opportunity
10 for a hearing with respect to such request;
11 and

12 “(ii) reissue or deny the applicable
13 order, rule, or regulation described in sub-
14 paragraph (A), and such order, rule, or
15 regulation shall take effect for a period
16 that is not longer than 5 years following
17 the date of expiration of the order, rule, or
18 regulation issued pursuant to paragraph
19 (1).

20 “(4) TREATMENT OF CERTAIN ACTIONS.—To
21 the extent any omission or action taken by an entity
22 that is necessary to comply with an order, rule, or
23 regulation issued under paragraph (1) or section
24 202, including any omission or action taken to vol-
25 untarily comply with such order, rule, or regulation,

1 results in noncompliance with or causes such entity
2 to not comply with any Federal, State, or local envi-
3 ronmental law or regulation, such omission or action
4 shall not—

5 “(A) be considered a violation of such envi-
6 ronmental law or regulation; or

7 “(B) subject such entity to any require-
8 ment, civil or criminal liability, or a citizen suit
9 under such environmental law or regulation.

10 “(b) ADVANCE NOTICE OF PLANNED RETIRE-
11 MENTS.—

12 “(1) IN GENERAL.—In the event an owner or
13 operator of a generating facility plans to retire an
14 electric generating unit, such owner or operator shall
15 submit to the Commission, the Electric Reliability
16 Organization, and the applicable State commission
17 and transmission organization a notice of such plans
18 not later than 5 years prior to the date on which
19 such owner or operator plans to retire such electric
20 generating unit.

21 “(2) UNPLANNED RETIREMENTS.—An owner
22 and operator of a generating facility that retires an
23 electric generating unit due to an unplanned catas-
24 trophe, emergency, disaster, or similar event that
25 has rendered such electric generating unit inoperable

1 is not subject to the notice requirement described in
2 paragraph (1).

3 “(3) PUBLICLY AVAILABLE.—The Commission
4 shall make publicly available the submitted notice
5 described in paragraphs (1) and (2), as applicable.

6 “(c) DEFINITIONS.—In this section:

7 “(1) BULK-POWER SYSTEM.—The term ‘bulk-
8 power system’ has the meaning given such term in
9 section 215.

10 “(2) ELECTRIC GENERATING UNIT.—The term
11 ‘electric generating unit’ means an electric energy
12 producing unit that is a component of a generating
13 facility that—

14 “(A) has a power production capacity of
15 not less than 5 megawatts; or

16 “(B) incidentally produces not less than 5
17 megawatts of electric energy for the bulk-power
18 system.

19 “(3) ELECTRIC RELIABILITY ORGANIZATION.—
20 The term ‘Electric Reliability Organization’ has the
21 meaning given such term in section 215(a).

22 “(4) GENERATING FACILITY.—The term ‘gener-
23 ating facility’ means a single facility—

24 “(A) with one or more electric generating
25 units; and

1 “(B) that produces electric energy for the
2 bulk-power system.

3 “(5) RETIRE.—The term ‘retire’, with respect
4 to an electric generating unit, means to, for an in-
5 definite period of time—

6 “(A) idle the electric generating unit;

7 “(B) disconnect the electric generating
8 unit from the bulk-power system; or

9 “(C) otherwise make unavailable for sale
10 all electric energy that is generated by the elec-
11 tric generating unit.”.

12 **SEC. 2. ELECTRIC RELIABILITY.**

13 Section 215 of the Federal Power Act (16 U.S.C.
14 824o) is amended by adding at the end the following:

15 “(1) ELECTRIC GENERATING UNIT RETIREMENT.—
16 Upon receipt of a notice of a plan to retire an electric
17 generating unit under section 207(b)(1), the Electric Reli-
18 ability Organization shall file a complaint with the Com-
19 mission pursuant to section 207(a)(1) if the Electric Reli-
20 ability Organization determines that such plan will be a
21 violation of a reliability standard or a reliability planning
22 requirement.”.

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