

118TH CONGRESS  
1ST SESSION

# H. R. 1766

To amend the Federal Power Act to establish a procedure for the siting of certain interstate electric transmission facilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2023

Mr. QUIGLEY (for himself, Mr. PETERS, and Mr. CASTEN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Federal Power Act to establish a procedure for the siting of certain interstate electric transmission facilities, 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. SHORT TITLE.**

4 This Act may be cited as the “Streamlining Inter-  
5 state Transmission of Electricity Act” or the “SITE Act”.

6 **SEC. 2. SITING OF CERTAIN INTERSTATE ELECTRIC TRANS-**  
7 **MISSION FACILITIES.**

8 Part II of the Federal Power Act (16 U.S.C. 824 et  
9 seq.) is amended by adding at the end the following:

1 **“SEC. 224. SITING OF CERTAIN INTERSTATE ELECTRIC**  
2 **TRANSMISSION FACILITIES.**

3 “(a) DEFINITIONS.—In this section:

4 “(1) AFFECTED LANDOWNER.—

5 “(A) IN GENERAL.—The term ‘affected  
6 landowner’ includes each owner of a property  
7 interest in land or other property described in  
8 subparagraph (B), including—

9 “(i) the Federal Government;

10 “(ii) a State or local government; and

11 “(iii) each owner noted in the most  
12 recent county or city tax record as receiv-  
13 ing the relevant tax notice with respect to  
14 that interest.

15 “(B) LAND AND OTHER PROPERTY DE-  
16 SCRIBED.—The land or other property referred  
17 to in subparagraph (A) is any land or other  
18 property—

19 “(i) that is or will be crossed by the  
20 energy transmission facility proposed to be  
21 constructed or modified under the applica-  
22 ble certificate of public convenience and  
23 necessity;

24 “(ii) that is or will be used as a facil-  
25 ity site with respect to the energy trans-  
26 mission facility proposed to be constructed

1 or modified under the applicable certificate  
2 of public convenience and necessity;

3 “(iii) that abuts any boundary of an  
4 existing right-of-way or other facility site  
5 that—

6 “(I) is owned by an electric util-  
7 ity; and

8 “(II) is located not more than  
9 500 feet from the energy transmission  
10 facility to be constructed or modified  
11 under the applicable certificate of  
12 public convenience and necessity;

13 “(iv) that abuts the boundary of a  
14 proposed facility site for the energy trans-  
15 mission facility to be constructed or modi-  
16 fied under the applicable certificate of pub-  
17 lic convenience and necessity;

18 “(v) that is crossed by, or abuts any  
19 boundary of, an existing or proposed right-  
20 of-way that—

21 “(I) will be used for the energy  
22 transmission facility to be constructed  
23 or modified under the applicable cer-  
24 tificate of public convenience and ne-  
25 cessity; and

1                   “(II) is located not more than  
2                   500 feet from the proposed location of  
3                   that energy transmission facility; or

4                   “(vi) on which a residence is located  
5                   not more than 500 feet from the boundary  
6                   of any right-of-way for that energy trans-  
7                   mission facility.

8                   “(2) ALTERNATING CURRENT TRANSMISSION  
9                   FACILITY.—The term ‘alternating current trans-  
10                  mission facility’ means a transmission facility that  
11                  uses alternating current for the bulk transmission of  
12                  electric energy.

13                  “(3) ENERGY TRANSMISSION FACILITY.—The  
14                  term ‘energy transmission facility’ means, as appli-  
15                  cable—

16                         “(A) an alternating current transmission  
17                         facility; or

18                         “(B) a high-voltage, direct current trans-  
19                         mission facility.

20                  “(4) FACILITY SITE.—The term ‘facility site’  
21                  includes—

22                         “(A) a right-of-way;

23                         “(B) an access road;

24                         “(C) a contractor yard; and

25                         “(D) any temporary workspace.

1           “(5) HIGH-VOLTAGE, DIRECT CURRENT TRANS-  
2           MISSION FACILITY.—The term ‘high-voltage, direct  
3           current transmission facility’ means a transmission  
4           facility that uses direct current for the bulk trans-  
5           mission of electric energy.

6           “(6) TRIBAL LAND.—The term ‘Tribal land’  
7           has the meaning given the term ‘Indian land’ in sec-  
8           tion 2601 of the Energy Policy Act of 1992 (25  
9           U.S.C. 3501).

10          “(b) CERTIFICATE OF PUBLIC CONVENIENCE AND  
11          NECESSITY.—

12                 “(1) IN GENERAL.—On receipt of an applica-  
13                 tion under subsection (c)(1) relating to an energy  
14                 transmission facility described in paragraph (2), the  
15                 Commission, after making the finding described in  
16                 paragraph (3) with respect to that energy trans-  
17                 mission facility, shall issue to any person, by publi-  
18                 cation in the Federal Register, a certificate of public  
19                 convenience and necessity for the construction,  
20                 modification, operation, or abandonment of that en-  
21                 ergy transmission facility, subject to such reasonable  
22                 terms and conditions as the Commission determines  
23                 to be appropriate.

24                 “(2) ENERGY TRANSMISSION FACILITY DE-  
25                 SCRIBED.—An energy transmission facility referred

1 to in paragraph (1) is an energy transmission facil-  
2 ity that—

3 “(A) traverses or, on construction or modi-  
4 fication in accordance with a certificate of pub-  
5 lic convenience and necessity issued under that  
6 paragraph, will traverse not fewer than 2  
7 States; and

8 “(B) is not less than 1,000 megawatts or  
9 1,000 megavolt-amperes in power capacity.

10 “(3) FINDING DESCRIBED.—The finding re-  
11 ferred to in paragraph (1) is a finding that—

12 “(A) the applicant for a certificate of pub-  
13 lic convenience and necessity is able and will-  
14 ing—

15 “(i) to carry out the activities and  
16 perform the services proposed in the appli-  
17 cation in a manner determined to be ap-  
18 propriate by the Commission; and

19 “(ii) to achieve compliance with the  
20 applicable requirements of—

21 “(I) this part; and

22 “(II) any rules and regulations  
23 promulgated by the Commission pur-  
24 suant to this part;

1           “(B) the energy transmission facility to be  
2           constructed, modified, or operated under the  
3           certificate of public convenience and necessity  
4           will—

5                   “(i) traverse not fewer than 2 States;

6                   “(ii) be used for the transmission of  
7           electric energy in interstate commerce; and

8                   “(iii) have a power capacity of not less  
9           than 1,000 megawatts or 1,000 megavolt-  
10          amperes; and

11          “(C) operation of the energy transmission  
12          facility as proposed in the application—

13                   “(i) will—

14                           “(I) enable the use of renewable  
15                   energy;

16                           “(II) reduce congestion; or

17                           “(III) improve the reliability of  
18                   the transmission system;

19                   “(ii) will maximize, to the extent rea-  
20           sonable and economical, the use of—

21                           “(I) existing facility sites; and

22                           “(II) the transmission capabili-  
23           ties of existing energy transmission  
24           facilities; and

1                   “(iii) will, to the extent practicable,  
2                   minimize the use of eminent domain.

3                   “(4) RULEMAKING.—Not later than 18 months  
4                   after the date of enactment of this section, the Com-  
5                   mission shall issue rules specifying—

6                   “(A) a pre-filing process during which a  
7                   person described in subsection (c)(1) and the  
8                   Commission shall consult with—

9                   “(i) the appropriate State agencies,  
10                  State public utility commissions, and State  
11                  energy offices in each State the proposed  
12                  project traverses;

13                  “(ii) appropriate Federal agencies;  
14                  and

15                  “(iii) each Indian Tribe that may be  
16                  affected by the proposed project;

17                  “(B) the form of, and information to be  
18                  contained in, an application submitted under  
19                  subsection (c)(1);

20                  “(C) requirements for determining whether  
21                  the applicable energy transmission facility will  
22                  be constructed or modified—

23                  “(i) to traverse not fewer than 2  
24                  States;



1                   “(ii) to be used for the transmission  
2                   of electric energy in interstate commerce;  
3                   and

4                   “(iii) to have a power capacity of not  
5                   less than 1,000 megawatts or 1,000 mega-  
6                   volt-amperes;

7                   “(D) criteria for determining the reason-  
8                   able and economical use of—

9                   “(i) existing rights-of-way; and

10                   “(ii) the transmission capabilities of  
11                   existing towers or structures;

12                   “(E) the manner in which an application  
13                   submitted under subsection (c)(1) and any pro-  
14                   posal for the construction or modification of an  
15                   energy transmission facility shall be considered,  
16                   which, to the extent practicable, shall be con-  
17                   sistent with State statutory and regulatory poli-  
18                   cies concerning generation and retail sales of  
19                   electricity in the States in which the electric en-  
20                   ergy transmitted by the energy transmission fa-  
21                   cility will be generated or sold; and

22                   “(F) the manner in which the Commission  
23                   will consider the needs of communities that will  
24                   be impacted directly by the proposed energy  
25                   transmission facility, including how any impacts

1 of the proposed energy transmission facility  
2 could be mitigated or offset.

3 “(5) PUBLIC NOTICE, COMMENT, AND OPPOR-  
4 TUNITY FOR A HEARING ON CERTAIN DRAFT DOCU-  
5 MENTS.—

6 “(A) IN GENERAL.—The Commission shall  
7 provide not less than 90 days for public com-  
8 ment on any initial scoping document or draft  
9 environmental impact statement prepared for  
10 an energy transmission facility with respect to  
11 which an application for a certificate of public  
12 convenience and necessity has been submitted  
13 under subsection (c)(1).

14 “(B) NOTICE AND OPPORTUNITY FOR  
15 HEARING.—The Commission shall—

16 “(i) publish in the Federal Register a  
17 notice of the filing of each draft scoping  
18 document or draft environmental impact  
19 statement described in clause (i); and

20 “(ii) provide to the individuals and en-  
21 tities described in paragraph (6)(B) notice  
22 and reasonable opportunity for the presen-  
23 tation of any views and recommendations  
24 with respect to the initial scoping docu-

1           ment or draft environmental impact state-  
2           ment.

3           “(C) TRIBAL CONSENT.—With respect to  
4           an Indian Tribe that may be affected by a po-  
5           tential project, the Commission—

6                   “(i) shall provide notice to the appro-  
7                   priate Tribal officials and an opportunity  
8                   of public comment in accordance with sub-  
9                   paragraph (A); and

10                   “(ii) shall not approve a scoping docu-  
11                   ment or draft environmental impact state-  
12                   ment unless consent has been obtained  
13                   from the proper Tribal officials in a man-  
14                   ner consistent with the requirements of  
15                   section 2 of the Act of February 5, 1948  
16                   (62 Stat. 18, chapter 45; 25 U.S.C. 324).

17           “(6) NOTICE AND OPPORTUNITY FOR A HEAR-  
18           ING ON APPLICATIONS.—

19                   “(A) IN GENERAL.—In any proceeding be-  
20                   fore the Commission to consider an application  
21                   for a certificate of public convenience and ne-  
22                   cessity under this section, the Commission  
23                   shall—

24                   “(i) publish a notice of the application  
25                   in the Federal Register; and

1           “(ii) provide to the individuals and en-  
2           tities described in subparagraph (B) a no-  
3           tice and reasonable opportunity for the  
4           presentation of any views and rec-  
5           ommendations with respect to the need for,  
6           and impact of, the construction or modi-  
7           fication of the energy transmission facility  
8           proposed to be constructed or modified  
9           under the certificate.

10           “(B) INDIVIDUALS AND ENTITIES DE-  
11           SCRIBED.—The individuals and entities referred  
12           to in subparagraph (A) are—

13           “(i) an agency, selected by the Gov-  
14           ernor (or equivalent official) of the applica-  
15           ble State, of each State in which the en-  
16           ergy transmission facility proposed to be  
17           constructed or modified under the applica-  
18           ble certificate of public convenience and  
19           necessity is or will be located;

20           “(ii) each affected landowner; and

21           “(iii) as determined by the Commis-  
22           sion—

23           “(I) each affected Federal agen-  
24           cy; and

1                   “(II) each Indian Tribe that may  
2                   be affected by the proposed construc-  
3                   tion or modification.

4                   “(C) PROHIBITION.—The Commission may  
5                   not—

6                   “(i) require an applicant for a certifi-  
7                   cate of public convenience and necessity  
8                   under this section to provide any notice re-  
9                   quired under this section; or

10                   “(ii) enter into a contract to provide  
11                   any notice required under this section  
12                   with—

13                   “(I) the applicant for the applica-  
14                   ble certificate of public convenience  
15                   and necessity; or

16                   “(II) any other person that has a  
17                   financial interest in the project pro-  
18                   posed in the application for that cer-  
19                   tificate.

20                   “(c) APPLICATIONS.—

21                   “(1) IN GENERAL.—A person desiring a certifi-  
22                   cate of public convenience and necessity under this  
23                   section shall submit to the Commission an applica-  
24                   tion at such time, in such manner, and containing  
25                   such information as the Commission may require.

1           “(2) REQUIREMENT.—An application submitted  
2 to the Commission under paragraph (1) shall include  
3 all information necessary for the Commission to  
4 make the finding described in subsection (b)(3).

5           “(d) NOTICE TO AFFECTED LANDOWNERS.—

6           “(1) IN GENERAL.—The Commission shall pro-  
7 vide written notice of an application submitted under  
8 subsection (c)(1) to all affected landowners in ac-  
9 cordance with this subsection.

10           “(2) REQUIREMENTS.—Any notice provided to  
11 an affected landowner under paragraph (1) shall in-  
12 clude the following:

13           “(A) The following statement in 14-point  
14 bold typeface:

15           ““The [name of applicant] has proposed build-  
16 ing power lines that will cross your property,  
17 and may also require building transmission tow-  
18 ers on your property. If the Federal Energy  
19 Regulatory Commission approves [applicant]’s  
20 proposed project, then [applicant] may have the  
21 right to build transmission towers on, and  
22 power lines over, your property, or use your  
23 property to construct the proposed project, sub-  
24 ject to paying you just compensation for the  
25 loss of your property.

1 “‘If you want to raise objections to this, or oth-  
2 erwise comment on this project, you can do so  
3 by submitting written comments to the Federal  
4 Energy Regulatory Commission Docket No.  
5 [\_\_\_\_\_]. You can do this electronically or by  
6 mail. To do so electronically [to be inserted by  
7 the Commission]. To do so by mail [to be in-  
8 serted by the Commission].’.

9 “(B) A description of the proposed project,  
10 including—

11 “(i) the location of the proposed  
12 project (including a general location map);

13 “(ii) the purpose of the proposed  
14 project; and

15 “(iii) the timing of the proposed  
16 project.

17 “(C) The name of, and the location in the  
18 docket of the Commission at which may be  
19 found, each submission by the applicant to the  
20 Commission relating to the proposed project.

21 “(D) A general description of what the ap-  
22 plicant will need from the landowner if the pro-  
23 posed project is approved, including the activi-  
24 ties the applicant may undertake and the facili-

1 ties that the applicant may seek to construct on  
2 the property of the landowner.

3 “(E) A description of how the landowner  
4 may contact the applicant, including—

5 “(i) a website; and

6 “(ii) a local or toll-free telephone  
7 number and the name of a specific person  
8 to contact who is knowledgeable about the  
9 proposed project.

10 “(F) A description of how the landowner  
11 may contact the Commission, including—

12 “(i) a website; and

13 “(ii) a local or toll-free telephone  
14 number and the name of a specific person  
15 to contact who is knowledgeable about the  
16 proposed project.

17 “(G) A summary of the rights that the  
18 landowner has—

19 “(i) before the Commission; and

20 “(ii) in other proceedings under—

21 “(I) the Federal Rules of Civil  
22 Procedure; and

23 “(II) the eminent domain rules of  
24 the relevant State.



1           “(H) Any other information that the Com-  
2           mission determines to be appropriate.

3           “(3) OBLIGATION OF APPLICANT.—An appli-  
4           cant for a certificate of public convenience and ne-  
5           cessity under this section shall submit to the Com-  
6           mission, together with the application for the certifi-  
7           cate, the name and address of each affected land-  
8           owner.

9           “(e) REGULATORY JURISDICTION.—

10           “(1) IN GENERAL.—Except as provided in para-  
11           graph (2), the Commission shall have exclusive juris-  
12           diction over, and no State shall regulate any aspect  
13           of, the siting or permitting of an energy trans-  
14           mission facility constructed, modified, or operated  
15           under a certificate of public convenience and neces-  
16           sity issued under this section.

17           “(2) SAVINGS CLAUSE.—Nothing in this section  
18           affects the rights of States under—

19           “(A) the Coastal Zone Management Act of  
20           1972 (16 U.S.C. 1451 et seq.);

21           “(B) the Federal Water Pollution Control  
22           Act (33 U.S.C. 1251 et seq.);

23           “(C) the Clean Air Act (42 U.S.C. 7401 et  
24           seq.); or

1           “(D) division A of subtitle III of title 54,  
2           United States Code (formerly known as the  
3           ‘National Historic Preservation Act’).

4           “(f) JUDICIAL REVIEW.—

5           “(1) IN GENERAL.—Any person aggrieved by  
6           an order issued by the Commission under this sec-  
7           tion may obtain review of the order in—

8           “(A) the court of appeals of the United  
9           States for any judicial circuit in which the en-  
10          ergy transmission facility to be constructed or  
11          modified under the applicable certificate of pub-  
12          lic convenience and necessity is or will be lo-  
13          cated; or

14          “(B) the United States Court of Appeals  
15          for the District of Columbia Circuit.

16          “(2) PETITION FOR REVIEW.—

17          “(A) IN GENERAL.—A person may obtain  
18          review under paragraph (1) by filing in the ap-  
19          plicable court a written petition praying that  
20          the order of the Commission be modified or set  
21          aside in whole or in part.

22          “(B) TIMING.—A petition under subpara-  
23          graph (A) shall be filed by not later than 60  
24          days after the date on which the applicable

1           order of the Commission is published in the  
2           Federal Register.

3           “(3) PERSON AGGRIEVED.—Notwithstanding  
4           any other provision of this Act, a person aggrieved  
5           by an order of the Commission issued under this  
6           section need not—

7                   “(A) have been a party to the proceedings  
8                   before the Commission in which that order was  
9                   issued in order to obtain judicial review of the  
10                  order under this subsection; or

11                   “(B) have requested rehearing before the  
12                  Commission prior to seeking judicial review.

13           “(g) RIGHT OF EMINENT DOMAIN FOR ENERGY  
14 TRANSMISSION FACILITIES.—

15                   “(1) IN GENERAL.—The holder of a certificate  
16                   of public convenience and necessity may acquire  
17                   through the exercise of the right of eminent domain  
18                   in a court described in paragraph (2) any right-of-  
19                   way, land, or other property that is necessary to  
20                   construct, modify, operate, or maintain an energy  
21                   transmission facility in accordance with that certifi-  
22                   cate if the holder—

23                   “(A) cannot acquire the necessary right-of-  
24                  way, land, or other property by contract;

1           “(B) is unable to agree with the owner of  
2           the right-of-way, land, or other property with  
3           respect to the compensation to be paid for that  
4           right-of-way, land, or other property; or

5           “(C) cannot clear defective title with re-  
6           spect to the right-of-way, land, or other prop-  
7           erty.

8           “(2) COURT DESCRIBED.—A court referred to  
9           in paragraph (1) is—

10           “(A) the district court of the United States  
11           for the district in which the applicable land or  
12           other property is located; or

13           “(B) the appropriate State court.

14           “(3) NOTICE OF DECISION TO ISSUE CERTIFI-  
15           CATE.—The holder of a certificate of public conven-  
16           ience and necessity may not exercise the right of  
17           eminent domain under this subsection with respect  
18           to any property covered by the certificate unless the  
19           Commission has first, in addition to publishing the  
20           notice of certificate of public convenience and neces-  
21           sity in the Federal Register, provided all affected  
22           landowners with notice of—

23           “(A) the decision of the Commission to  
24           grant the certificate; and

1           “(B) the procedures for obtaining judicial  
2 review of that decision under subsection (f), in-  
3 cluding a description of the time period for  
4 seeking judicial review under that subsection.

5           “(h) CONDEMNATION PROCEDURES.—

6           “(1) APPRAISALS.—

7           “(A) IN GENERAL.—A holder of, or appli-  
8 cant for, a certificate of public convenience and  
9 necessity shall have any property that the hold-  
10 er or applicant seeks to acquire through the ex-  
11 ercise of the right of eminent domain under  
12 subsection (g) appraised in accordance with  
13 generally accepted appraisal standards by an  
14 appraiser selected by the owner of the property,  
15 subject to subparagraph (D).

16           “(B) REQUIREMENTS.—

17           “(i) COSTS.—The applicable holder of,  
18 or applicant for, a certificate of public con-  
19 venience and necessity shall pay for each  
20 appraisal carried out under subparagraph  
21 (A).

22           “(ii) INSPECTIONS.—The owner of the  
23 applicable property (or a designated rep-  
24 resentative of the owner) shall be given the  
25 opportunity to accompany the appraiser

1           during any inspection of the property that  
2           is part of an appraisal under subparagraph  
3           (A).

4           “(C) TIMING.—An appraisal under sub-  
5           paragraph (A) shall be carried out before the  
6           holder of, or applicant for, the certificate of  
7           public convenience and necessity—

8                   “(i) makes an offer of just compensa-  
9                   tion under paragraph (2); or

10                   “(ii) commences an action or pro-  
11                   ceeding to exercise the right of eminent do-  
12                   main under subsection (g).

13           “(D) SELECTION OF APPRAISER.—If the  
14           owner of the applicable property does not select  
15           an appraiser under subparagraph (A) by the  
16           date that is 60 days after the date on which the  
17           holder of, or applicant for, the applicable certifi-  
18           cate of public convenience and necessity re-  
19           quests that the owner do so, the holder or ap-  
20           plicant shall have the right to select the ap-  
21           praiser.

22           “(2) OFFERS OF JUST COMPENSATION.—

23                   “(A) IN GENERAL.—Any offer of just com-  
24                   pensation made to an affected landowner of

1 property that is covered by a certificate of pub-  
2 lic convenience and necessity—

3 “(i) shall be made in writing;

4 “(ii) may not be for an amount less  
5 than the fair market value of the property,  
6 as determined by an appraisal carried out  
7 under paragraph (1); and

8 “(iii) shall include compensation for—

9 “(I) any lost income from the  
10 property; and

11 “(II) any damages to any other  
12 property of the owner.

13 “(B) TIMING.—The holder of, or applicant  
14 for, a certificate of public convenience and ne-  
15 cessity may not make an offer of just com-  
16 pensation to an affected landowner until the  
17 date that is 30 days after the date on which the  
18 Commission provides a notice to the affected  
19 landowner under subsection (g)(3).

20 “(3) JURISDICTIONAL LIMITATIONS.—

21 “(A) MINIMUM JURISDICTIONAL  
22 AMOUNT.—A district court of the United States  
23 shall only have jurisdiction of an action or pro-  
24 ceeding to exercise the right of eminent domain  
25 under subsection (g) if the amount claimed by

1 the owner of the property to be condemned ex-  
2 ceeds \$3,000.

3 “(B) STATE OWNERSHIP INTERESTS.—

4 “(i) IN GENERAL.—Except as pro-  
5 vided in clause (ii), a district court of the  
6 United States shall have no jurisdiction to  
7 condemn any interest owned by a State.

8 “(ii) EXCEPTION.—Notwithstanding  
9 clause (i), a district court of the United  
10 States shall have jurisdiction—

11 “(I) to condemn any existing util-  
12 ity or transportation easement or  
13 right-of-way that—

14 “(aa) is on State property;

15 or

16 “(bb) is on private property  
17 and is owned by a State; and

18 “(II) to condemn any real prop-  
19 erty conveyed to a State for the pur-  
20 pose of obstructing the construction,  
21 modification, or operation of an en-  
22 ergy transmission facility in accord-  
23 ance with a certificate of public con-  
24 venience and necessity issued under  
25 this section.



1           “(C) TRIBAL LAND.—A district court of  
2           the United States shall have no jurisdiction to  
3           condemn any interest in Tribal land.

4           “(4) LIMITATION ON CONDEMNATION.—In any  
5           action or proceeding to exercise the right of eminent  
6           domain under subsection (g), a court—

7                   “(A) may condemn an interest in property  
8                   only to the extent necessary for the specific fa-  
9                   cilities described in the applicable certificate of  
10                  public convenience and necessity; and

11                   “(B) may not—

12                           “(i) condemn any other interest; or

13                           “(ii) condemn an interest for any pur-  
14                          pose not described in that certificate.

15           “(5) RIGHT OF POSSESSION.—With respect to  
16           any action or proceeding to exercise the right of emi-  
17           nent domain under subsection (g), an owner of prop-  
18           erty covered by the applicable certificate of public  
19           convenience and necessity shall not be required to  
20           surrender possession of that property unless the  
21           holder of the certificate—

22                   “(A) has paid to the owner the award of  
23                   compensation in the action or proceeding; or

24                   “(B) has deposited the amount of that  
25                   award with the court.

1 “(6) LITIGATION COSTS.—

2 “(A) IN GENERAL.—A holder of a certifi-  
3 cate of public convenience and necessity that  
4 commences an action or proceeding to exercise  
5 the right of eminent domain under subsection  
6 (g) shall be liable to the owner of any property  
7 condemned in that proceeding for the costs de-  
8 scribed in subparagraph (B) if the amount  
9 awarded to that owner for the property con-  
10 demned is more than 125 percent of the  
11 amount offered to the owner by the holder be-  
12 fore the commencement of that action or pro-  
13 ceeding.

14 “(B) COSTS DESCRIBED.—The costs re-  
15 ferred to in subparagraph (A) are litigation  
16 costs incurred for the action or proceeding de-  
17 scribed in that subparagraph by the owner of  
18 the property condemned, including—

19 “(i) reasonable attorney fees; and

20 “(ii) expert witness fees and costs.

21 “(i) ENFORCEMENT OF CONDITIONS.—

22 “(1) IN GENERAL.—An affected landowner the  
23 property of which has been acquired by eminent do-  
24 main under subsection (g) shall have the right—

1           “(A) to enforce any condition in the appli-  
2 cable certificate of public convenience and ne-  
3 cessity; and

4           “(B) to seek damages for a violation of  
5 any condition described in subparagraph (A).

6           “(2) JURISDICTION.—The district courts of the  
7 United States shall have jurisdiction over any action  
8 arising under paragraph (1).

9           “(j) OTHER LANDOWNER RIGHTS AND PROTEC-  
10 TIONS.—

11           “(1) FAILURE TO TIMELY COMPLETE  
12 PROJECTS.—

13           “(A) SURRENDER OF CONDEMNED PROP-  
14 ERTY.—

15           “(i) IN GENERAL.—An individual or  
16 entity from which an interest in property is  
17 acquired through the exercise of the right  
18 of eminent domain under subsection (g) by  
19 the holder of a certificate of public conven-  
20 ience and necessity that is issued for the  
21 construction, modification, or operation of  
22 an energy transmission facility may de-  
23 mand that the holder of the certificate sur-  
24 render that interest to that individual or  
25 entity if—

1                   “(I)(aa) the energy transmission  
2                   facility is not in operation (as modi-  
3                   fied, in the case of a modification of  
4                   an energy transmission facility) by the  
5                   date specified in the certificate (in-  
6                   cluding any modification of the certifi-  
7                   cate by the Commission); and

8                   “(bb) there is no request for the  
9                   extension of that date pending before  
10                  the Commission; or

11                  “(II) subject to clause (ii), the  
12                  holder of the certificate, with the ap-  
13                  proval of the Commission, abandons  
14                  the portion of the energy transmission  
15                  facility that is located on the applica-  
16                  ble property relating to that interest.

17                  “(ii) REQUIREMENT.—The Commis-  
18                  sion may not approve in a certificate of  
19                  public convenience and necessity issued  
20                  under this section or in any subsequent  
21                  proceeding the abandonment of all or any  
22                  part of an energy transmission facility un-  
23                  less the Commission requires the holder of  
24                  the applicable certificate of public conven-  
25                  ience and necessity to offer to each indi-

1           vidual or entity described in clause (i) the  
2           option of having the property acquired  
3           from that individual or entity as described  
4           in that clause restored to the condition  
5           that the property was in prior to the  
6           issuance of the certificate.

7           “(B) REPAYMENT OF CONDEMNATION  
8           AWARD.—If an individual or entity described in  
9           subparagraph (A)(i) demands the surrender of  
10          an interest under that subparagraph, the holder  
11          of the applicable certificate of public conven-  
12          ience and necessity shall be entitled to repay-  
13          ment of an amount equal to not more than 50  
14          percent of the condemnation award relating to  
15          the interest.

16          “(C) JURISDICTION.—The district courts  
17          of the United States shall have jurisdiction over  
18          any action arising under this paragraph.

19          “(2) MATERIAL MISREPRESENTATIONS.—

20                 “(A) RESCISSION OF TRANSACTION.—

21                         “(i) IN GENERAL.—An affected land-  
22                         owner that proves, by a preponderance of  
23                         the evidence, that the affected landowner  
24                         has granted a right-of-way or any other in-  
25                         terest based on a material misrepresenta-

1           tion made by or on behalf of an applicant  
2           for, or holder of, a certificate of public con-  
3           venience and necessity under this section  
4           shall have the right to rescind the trans-  
5           action.

6           “(ii) JURISDICTION.—The district  
7           courts of the United States shall have ju-  
8           risdiction over any action arising under  
9           clause (i).

10          “(B) CIVIL PENALTIES.—

11           “(i) IN GENERAL.—If an applicant  
12           for, or holder of, a certificate of public con-  
13           venience and necessity makes a material  
14           misrepresentation, or if a material mis-  
15           representation is made on behalf of such  
16           an applicant or holder, to an affected land-  
17           owner concerning the energy transmission  
18           facility to be constructed or modified under  
19           the certificate, the applicant or holder shall  
20           be subject to a civil penalty, to be assessed  
21           by the Commission, in an amount not to  
22           exceed \$10,000 per affected landowner to  
23           which the misrepresentation was made.

24           “(ii) PROCEDURE.—The penalty de-  
25           scribed in clause (i) shall be assessed by

1 the Commission after providing notice and  
2 an opportunity for a public hearing.

3 “(iii) REQUIREMENT.—In determining  
4 the amount of a penalty under clause (i),  
5 the Commission shall take into consider-  
6 ation the nature and seriousness of the vio-  
7 lation.”.

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