

118TH CONGRESS  
1ST SESSION

# H. R. 5075

To direct the Federal Energy Regulatory Commission to prohibit covered utilities from recovering covered expenses from ratepayers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2023

Ms. CASTOR of Florida (for herself, Mr. CASTEN, and Mr. BOWMAN) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To direct the Federal Energy Regulatory Commission to prohibit covered utilities from recovering covered expenses from ratepayers, 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 “Ethics in Energy Act  
5 of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **CENTRALIZED SERVICE COMPANY.**—The  
9 term “centralized service company” has the meaning

1 given the term in section 367.1(a) of title 18, Code  
2 of Federal Regulations (or a successor regulation).

3 (2) COMMISSION.—The term “Commission”  
4 means the Federal Energy Regulatory Commission.

5 (3) COVERED EXPENSE.—The term “covered  
6 expense” means a direct or indirect expense paid by  
7 a covered utility to—

8 (A) an external entity to perform political  
9 influence activities;

10 (B) a centralized service company, parent  
11 company, or other corporate affiliate—

12 (i) to perform a political influence ac-  
13 tivity; and

14 (ii) that invoices that covered utility  
15 for the expenses related to that political in-  
16 fluence activity; or

17 (C) an employee of that covered utility, in  
18 the form of a salary, that performs a political  
19 influence activity.

20 (4) COVERED UTILITY.—The term “covered  
21 utility” means—

22 (A) an electric utility company (as defined  
23 in section 367.1(a) of title 18, Code of Federal  
24 Regulations (or a successor regulation)) that

1 had, in each of the 3 previous calendar years,  
2 sales or transmission services that exceeded—

3 (i) 1,000,000 megawatt-hours of total  
4 annual sales;

5 (ii) 100 megawatt-hours of annual  
6 sales for resale;

7 (iii) 500 megawatt-hours of annual  
8 power exchanges delivered; or

9 (iv) 500 megawatt-hours of annual  
10 wheeling;

11 (B) a major natural gas company; and

12 (C) a centralized service company.

13 (5) MAJOR NATURAL GAS COMPANY.—The term  
14 “major natural gas company” means a natural-gas  
15 company (as defined in section 2 of the Natural Gas  
16 Act (15 U.S.C. 717a)) whose combined gas trans-  
17 ported or stored for a fee exceed 50,000,000 Dth in  
18 each of the 3 previous calendar years.

19 (6) POLITICAL INFLUENCE ACTIVITY.—The  
20 term “political influence activity” includes—

21 (A) any expense for the purpose of directly  
22 or indirectly influencing the possible—

23 (i) adoption of Federal, State, or local  
24 regulations, legislation, or ordinances; or

1 (ii) repeal or modification of existing  
2 Federal, State, or local regulations, legisla-  
3 tion, or ordinances;

4 (B) any expense for the purpose of directly  
5 or indirectly influencing elections or appoint-  
6 ments of public officials or referenda;

7 (C) any expense for the purpose of directly  
8 or indirectly influencing the approval, modifica-  
9 tion, or revocation of utility franchises;

10 (D) any expense for the purpose of directly  
11 or indirectly influencing the public opinion with  
12 respect to Federal, State, or local—

13 (i) regulations, legislation, or ordi-  
14 nances;

15 (ii) elections;

16 (iii) referenda; or

17 (iv) utility rate setting;

18 (E) any expense for the purpose of directly  
19 or indirectly influencing the decisions of Fed-  
20 eral, State, or local government officials;

21 (F) any expense relating to attendance or  
22 participation in, preparation for, or appeal of  
23 any formal proceeding before a regulatory com-  
24 mission;

1 (G) dues or fees paid to trade associations  
2 or industry associations;

3 (H) any contributions or other payments  
4 to an organization described in paragraph (3)  
5 or (4) of section 501(c) of the Internal Revenue  
6 Code of 1986; and

7 (I) advertising, marketing, or public rela-  
8 tions expenses designed for the purpose of—

9 (i) influencing public opinion;

10 (ii) increasing goodwill toward a cov-  
11 ered utility from the public or from public  
12 officials;

13 (iii) improving the reputation of a cov-  
14 ered utility; or

15 (iv) promoting or retaining the service  
16 provided by a covered utility.

17 **SEC. 3. PROHIBITION AGAINST RECOVERING POLITICAL**  
18 **ACTIVITY EXPENSES FROM RATEPAYERS.**

19 (a) REGULATIONS.—Not later than 18 months after  
20 the date of enactment of this Act, the Commission shall  
21 promulgate regulations—

22 (1) to prohibit covered utilities from recovering  
23 covered expenses from ratepayers in proceedings be-  
24 fore the Commission, in accordance with this sec-  
25 tion; and

1           (2) to amend the applicable Uniform System of  
2 Accounts in title 18, Code of Federal Regulations  
3 (or successor regulations), to instruct covered utili-  
4 ties to place covered expenses in accounts that are  
5 presumptively not recoverable from ratepayers, in  
6 accordance with this section.

7 (b) REPORT.—

8           (1) IN GENERAL.—The Commission shall re-  
9 quire that, not later than 18 months after the date  
10 of enactment of this Act, and annually thereafter,  
11 each covered utility shall submit to the Commission  
12 a report containing—

13           (A) an itemized list of expenses of the pre-  
14 ceding year recorded in accounts relating to—

15                   (i) covered expenses;

16                   (ii) outside services or vendors; and

17                   (iii) the operations of the covered util-  
18 ity with respect to administrative and gen-  
19 eral expenses; and

20           (B) for each expense or cost described in  
21 clauses (i) through (iii) of subparagraph (A),  
22 unredacted information with respect to each of  
23 the matters described in paragraph (2) that are  
24 applicable to that expense or cost.

1           (2) MATTERS DESCRIBED.—The matters re-  
2           ferred to in paragraph (1)(B) for the expenses and  
3           costs described in clauses (i) through (iii) of para-  
4           graph (1)(A) are the following:

5                   (A) Billing amounts.

6                   (B) Billing dates.

7                   (C) The identity of each payee for any ex-  
8           ternal consultants or contracts.

9                   (D) In the case of a payment made to a  
10          third-party vendor by a centralized service com-  
11          pany, parent company, or other corporate affil-  
12          iate of the covered utility, the identity of that  
13          third-party vendor.

14                  (E) The job title, portion of salaries, and  
15          expenses of covered utility staff with respect to  
16          any work performed relating to a covered ex-  
17          pense.

18                  (F) An explanation of the expense or cost  
19          that is sufficient to describe the purpose of the  
20          expense or cost.

21           (3) REPORTING MINIMUM REMOVED.—With re-  
22          spect to any annual form that a covered utility sub-  
23          mits to the Commission having a reporting threshold  
24          of \$250,0000, the Commission shall remove that re-  
25          porting threshold for the reporting of transactions

1 with associated or affiliated companies on that an-  
2 nual form.

3 (c) ENFORCEMENT.—

4 (1) IN GENERAL.—The Commission shall mon-  
5 itor and investigate compliance and noncompliance  
6 with the regulations promulgated under this section.

7 (2) PENALTY.—

8 (A) IN GENERAL.—In addition to any re-  
9 funds that the Commission orders a covered  
10 utility to pay ratepayers, the Commission shall  
11 assess a penalty in accordance with subpara-  
12 graph (B) against a covered utility that violates  
13 or fails or refuses to comply with the regula-  
14 tions promulgated under this section by charg-  
15 ing a ratepayer a covered expense.

16 (B) AMOUNT OF PENALTY.—

17 (i) IN GENERAL.—Subject to clause  
18 (ii), a penalty assessed under subpara-  
19 graph (A) shall be—

20 (I) for a covered expense charged  
21 to ratepayers in an amount less than  
22 \$1,000,000, not less than the amount  
23 of that covered expense;

24 (II) for a covered expense  
25 charged to ratepayers in an amount



1 not less than \$1,000,000 and not  
2 more than \$10,000,000, not less than  
3 double the amount of that covered ex-  
4 pense; and

5 (III) for a covered expense  
6 charged to ratepayers in an amount  
7 more than \$10,000,000, not less than  
8 triple the amount of that covered ex-  
9 pense.

10 (ii) LIMITATION.—The amount of a  
11 penalty assessed under subparagraph (A)  
12 shall be not more than 20 times the  
13 amount of the applicable covered expense.

14 (3) NO RECOVERY FROM RATEPAYERS.—Cov-  
15 ered utilities that are subject to a penalty under this  
16 subsection may not recover that penalty from rate-  
17 payers.

18 (4) PENALTY DISTRIBUTION.—With respect to  
19 each penalty assessed and collected under this sub-  
20 section—

21 (A)  $\frac{1}{2}$  of that penalty shall be distributed  
22 to ratepayers, through a rebate; and

23 (B)  $\frac{1}{2}$  of that penalty shall be distributed  
24 to the Commission for the purpose of increasing  
25 resources for enforcing this section.

1           (5) RULE OF CONSTRUCTION.—Nothing in this  
2    Act prevents the Commission from issuing refunds  
3    or rebates to ratepayers for a covered expense that  
4    was recovered by a covered utility on a date before  
5    the date of enactment of this Act.

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