

104TH CONGRESS
2D SESSION

H. R. 3172

To establish a Commission to develop strategies and policies to mitigate the environmental impacts associated with electric utility restructuring.

IN THE HOUSE OF REPRESENTATIVES

MARCH 27, 1996

Mr. KENNEDY of Rhode Island (for himself, Mr. BOEHLERT, Mr. MARKEY, Mr. BLUTE, Mr. PALLONE, Mr. QUINN, Mr. TORKILDSEN, Mr. HINCHEY, and Mr. GEJDENSON) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To establish a Commission to develop strategies and policies to mitigate the environmental impacts associated with electric utility restructuring.

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 “Clean Power Produc-
5 tion Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) electric power utilities are a source of air
9 pollutant emissions such as nitrogen oxides (NO_x),

1 sulfur dioxide (SO₂), and anthropogenic emissions of
2 carbon dioxide (CO₂), a greenhouse gas;

3 (2) the electric utility industry is entering a pe-
4 riod of restructuring and deregulation in numerous
5 States, regions, and Federal administrative bodies;

6 (3) the opportunities for increased competition
7 offers potentially significant economic benefits to all
8 classes of consumers; however there remains a sub-
9 stantial risk of increased emissions and environ-
10 mental damages due to changed operating proce-
11 dures and market characteristics among electric util-
12 ity generators;

13 (4) studies have raised concerns regarding the
14 likely impacts of electric utility restructuring on the
15 environment, in particular, proposed restructuring
16 actions which may be taken by the Federal Energy
17 Regulatory Commission;

18 (5) there have been a number of proposals
19 among States for mitigating the environmental im-
20 pacts of electric utility restructuring, but no regional
21 or national mitigating strategies and policies have
22 been developed or implemented;

23 (6) it is in the national interest to further ex-
24 amine the entire range of environmental impacts as-
25 sociated with electric utility restructuring and to de-

1 velop additional, more comprehensive strategies and
2 policy recommendations for addressing such impacts;
3 and

4 (7) it is in the national interest for Federal and
5 State utility regulators, Federal and State environ-
6 mental authorities, and all other affected parties, to
7 cooperate in the formulation of new policies and pro-
8 cedures that will result in no significant diminution
9 in the quality of the national and global environment
10 as a consequence of electric utility restructuring.

11 **SEC. 3. ASSESSMENT OF ENVIRONMENTAL IMPACTS.**

12 (a) IN GENERAL.—The Administrator of the Envi-
13 ronmental Protection Agency (hereinafter in this Act re-
14 ferred to as the “Administrator”) shall undertake an as-
15 sessment of the reasonable range of environmental im-
16 pacts associated with the likely outcomes of electric utility
17 restructuring within and among regions. The assessment
18 shall consider significant proposed State and Federal al-
19 terations of public utility regulatory laws and the probable
20 results of these alterations upon emissions or on the envi-
21 ronment, including emissions of air pollutants, including
22 pollutants for which standards are in effect under section
23 109 of the Clean Air Act, carbon dioxide and other green-
24 house gases, carbon; and significant land and water im-
25 pacts.

1 (b) CONSULTATION.—In performing the assessment
2 under this section the Administrator shall consult with the
3 Secretary of Energy, the Chair of the Federal Energy
4 Regulatory Commission, the Chair of the Council on Envi-
5 ronmental Quality, and other Federal and State agency
6 officials as appropriate.

7 (c) REPORT.—The Administrator shall submit a re-
8 port to Congress within 6 months after the enactment of
9 this Act containing the results of the assessment under
10 this section.

11 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
12 authorized to be appropriated to the Administration for
13 the fiscal year 1997 not more than \$1,000,000 to be used
14 to carry out the assessment under this section.

15 **SEC. 4. COMMISSION.**

16 (a) ESTABLISHMENT.—The Administrator and the
17 Secretary of Energy shall establish and co-chair a commis-
18 sion to be known as the Commission for Environmental
19 Mitigation of Electric Utility Restructuring (hereinafter in
20 this section referred to as “the Commission”). The Com-
21 mission shall include a representative from the Council on
22 Environmental Quality, the Federal Energy Regulatory
23 Commission, and the Council of Economic Advisors.

24 (b) PURPOSE.—The purpose of the Commission shall
25 be to develop strategies and policies, using the assessment

1 prepared under section 3, to mitigate the environmental
2 impacts associated with electric utility restructuring. The
3 strategies and policies shall—

4 (1) not reduce the benefits of electric utility re-
5 structuring;

6 (2) preserve or enhance the quality of competi-
7 tion in the restructured industry, as well as preserv-
8 ing robust and fair competition between other fuels
9 and electricity;

10 (3) give due consideration to the impacts upon
11 companies or investors in companies that provide
12 service in the existing or restructured industry;

13 (4) rely to the maximum extent possible on vol-
14 untary measures, economic incentives, and market
15 based policies;

16 (5) be flexible and performance-based;

17 (6) fully mitigate all probable incremental envi-
18 ronmental impacts associated with electric utility re-
19 structuring;

20 (7) be consistent with the intent of existing
21 State and Federal environmental and siting statutes,
22 policies, and commitments; and

23 (8) assist the Nation in meeting its environ-
24 mental, economic, employment, and energy policy ob-

1 jectives, including the efficient use of natural re-
2 sources.

3 (c) REPORT.—Within 12 months after the enactment
4 of this Act, the Commission shall submit a report to Con-
5 gress containing the recommendations for strategies and
6 policies developed under subsection (b). The report shall
7 include, at a minimum—

8 (1) recommendations for the alteration of exist-
9 ing Federal environmental or regulatory statutes;

10 (2) recommendations concerning rules and pro-
11 cedures for the operation of power pools, trans-
12 mission groups, or other coordinated power systems;

13 (3) recommendations concerning the need for
14 regional and interregional mechanisms or institu-
15 tions; and

16 (4) options for Federal, regional, or model
17 State policies to fully or adequately mitigate the ad-
18 verse environmental impacts of restructuring.

19 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
20 authorized to be appropriated for the fiscal years 1997
21 and 1998, \$1,000,000 to the Environmental Protection
22 Agency and \$1,000,000 to the Department of Energy to
23 carry out the duties of the Commission.

1 **SEC. 5. EXISTING AUTHORITIES OF FERC AND STATES.**

2 Nothing in this Act shall be construed to limit or oth-
3 erwise adversely affect the authority of the Federal En-
4 ergy Regulatory Commission to address the mitigation of
5 adverse environmental impacts in any rulemaking relating
6 to the restructuring of the electric utility industry, com-
7 petition in wholesale energy markets, open transmission
8 access or any related matter. Nothing in this Act shall
9 be construed to limit or affect in any way the authority
10 of States to examine or address electric utility restructur-
11 ing concerns and related environmental issues that are
12 within the jurisdiction of State government authorities.

○