

118TH CONGRESS
1ST SESSION

H. R. 2596

To prohibit natural gas price gouging after a disaster, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2023

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

A BILL

To prohibit natural gas price gouging after a disaster, 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 “Stop PG&E Price
5 Gouging During Emergencies Act”.

6 **SEC. 2. PROHIBITION ON UNCONSCIONABLE PRICING OF**
7 **NATURAL GAS DURING A MAJOR DISASTER**
8 **DECLARATION.**

9 For the duration of a major disaster declared under
10 section 401 of the Robert T. Stafford Disaster Relief and
11 Emergency Assistance Act (42 U.S.C. 5170), and for 1

1 year after the end of such major disaster, it shall be un-
2 lawful for any utility company to charge a rate for the
3 sale of natural gas, at wholesale or at retail, in any county
4 to which the declaration applies that, as determined by
5 the Federal Trade Commission, in collaboration with the
6 Federal Energy Regulatory Commission—

7 (1) is unconscionably excessive; and

8 (2) indicates that the utility company is taking
9 unfair advantage of the circumstances related to the
10 declaration of a major disaster to increase prices un-
11 reasonably.

12 **SEC. 3. ENFORCEMENT BY THE FEDERAL TRADE COMMIS-**
13 **SION.**

14 (a) ENFORCEMENT BY FTC.—A violation of section
15 2 shall be treated as a violation of a rule defining an un-
16 fair or deceptive act or practice prescribed under section
17 18(a)(1)(B) of the Federal Trade Commission Act (15
18 U.S.C. 57a(a)(1)(B)). The Federal Trade Commission
19 shall enforce a violation of section 2 in the same manner,
20 by the same means, and with the same jurisdiction as
21 though all applicable terms and provisions of the Federal
22 Trade Commission Act were incorporated into and made
23 a part of this Act. In enforcing section 2 of this Act, the
24 Commission shall give priority to enforcement actions con-
25 cerning utility companies with total United States whole-

1 sale or retail sales of natural gas in excess of
2 \$2,000,000,000 per year.

3 (b) CIVIL PENALTIES.—

4 (1) IN GENERAL.—Notwithstanding the pen-
5 alties set forth under the Federal Trade Commission
6 Act, any utility company that knowingly violates sec-
7 tion 2 shall be subject to—

8 (A) a civil penalty of not more than 3
9 times the amount of profits gained by such util-
10 ity company through such violation; or

11 (B) a civil penalty of not more than
12 \$100,000,000 total.

13 (2) METHOD.—The penalties under paragraph
14 (1) shall be obtained in the same manner as civil
15 penalties obtained under section 5 of the Federal
16 Trade Commission Act (15 U.S.C. 45).

17 (3) MULTIPLE OFFENSES; MITIGATING FAC-
18 TORS.—In assessing the penalty provided by para-
19 graph (1)—

20 (A) each day of a continuing violation shall
21 be considered a separate violation; and

22 (B) the court shall take into consideration,
23 among other factors, the seriousness of the vio-
24 lation and the efforts of the utility company

1 committing the violation to remedy the harm
2 caused by the violation in a timely manner.

3 **SEC. 4. CRIMINAL PENALTIES.**

4 (a) IN GENERAL.—In addition to any penalty appli-
5 cable under section 3, any utility company that violates
6 section 2 shall be fined under title 18, United States Code,
7 in an amount not to exceed \$500,000,000.

8 (b) ENFORCEMENT.—The criminal penalty provided
9 by subsection (a) may be imposed only pursuant to a
10 criminal action brought by the Attorney General.

11 **SEC. 5. ENFORCEMENT AT RETAIL LEVEL BY STATE ATTOR-**
12 **NEYS GENERAL.**

13 (a) IN GENERAL.—An attorney general of a State,
14 as *parens patriae*, may bring a civil action on behalf of
15 its residents in an appropriate district court of the United
16 States to enforce the provisions of section 2 of this Act,
17 or to impose the civil penalties authorized by section
18 3(b)(1)(B), whenever the attorney general of the State has
19 reason to believe that the interests of the residents of the
20 State have been or are being threatened or adversely af-
21 fected by a violation of this Act, involving a retail sale.

22 (b) NOTICE.—The attorney general of a State shall
23 serve written notice to the Federal Trade Commission of
24 any civil action under subsection (a) prior to initiating
25 such civil action. The notice shall include a copy of the

1 complaint to be filed to initiate such civil action, except
2 that if it is not feasible for the State to provide such prior
3 notice, the State shall provide such notice immediately
4 upon instituting such civil action.

5 (c) LIMITATION ON STATE ACTION WHILE FEDERAL
6 ACTION IS PENDING.—If the Federal Trade Commission
7 or the Federal Energy Regulatory Commission has initi-
8 ated a civil action or an administrative action for violation
9 of this Act, no State attorney general, or official or agency
10 of a State, may bring an action under this section during
11 the pendency of that action against any defendant named
12 in the complaint of the Federal Trade Commission or the
13 Federal Energy Regulatory Commission for any violation
14 of this Act alleged in the complaint.

15 (d) RULES OF CONSTRUCTION.—

16 (1) CIVIL ACTION.—For purposes of bringing
17 any civil action under subsection (a), nothing in this
18 section shall be construed to prevent the attorney
19 general of a State from exercising the powers con-
20 ferred on the attorney general by the laws of such
21 State to conduct investigations, administer oaths or
22 affirmations, or compel the attendance of witnesses
23 or the production of documentary and other evi-
24 dence.

1 (2) ENFORCEMENT OF STATE LAW.—Nothing
2 in this section shall be construed to prohibit an au-
3 thorized State official from proceeding in State court
4 to enforce a civil or criminal statute of such State.

5 **SEC. 6. EFFECT ON OTHER LAWS.**

6 (a) OTHER AUTHORITY OF FEDERAL TRADE COM-
7 MISSION.—Nothing in this Act shall be construed to limit
8 or affect in any way the Federal Trade Commission’s au-
9 thority to bring enforcement actions or take any other
10 measure under the Federal Trade Commission Act (15
11 U.S.C. 41 et seq.) or any other provision of law.

12 (b) STATE LAW.—Nothing in this Act preempts any
13 State law.

14 **SEC. 7. DEFINITIONS.**

15 In this Act:

16 (1) NATURAL GAS.—The term “natural gas”
17 has the meaning given that term in section 2 of the
18 Natural Gas Act (15 U.S.C. 717a).

19 (2) UTILITY COMPANY.—The term “utility com-
20 pany” means a gas utility company or a public-util-
21 ity company, as such terms are defined in section
22 1262(7) of the Public Utility Holding Company Act
23 of 2005 (42 U.S.C. 16451).

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