

117TH CONGRESS
1ST SESSION

S. 2651

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

IN THE SENATE OF THE UNITED STATES

AUGUST 5, 2021

Mr. WHITEHOUSE (for himself, Mr. HEINRICH, and Mr. HICKENLOOPER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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 270 days
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

property that is covered by a certificate of public convenience and necessity—

“(i) shall be made in writing;

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

“(iii) shall include compensation for—

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

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

“(B) TIMING.—The holder of, or applicant for, a certificate of public convenience and necessity may not make an offer of just compensation to an affected landowner until the date that is 30 days after the date on which the Commission provides a notice to the affected landowner under subsection (g)(3).

“(3) JURISDICTIONAL LIMITATIONS.—

“(A) MINIMUM JURISDICTIONAL AMOUNT.—A district court of the United States shall only have jurisdiction of an action or proceeding to exercise the right of eminent domain under subsection (g) if the amount claimed by

the owner of the property to be condemned exceeds \$3,000.

“(B) STATE OWNERSHIP INTERESTS.—

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

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

“(I) to condemn any existing utility or transportation easement or right-of-way that—

“(aa) is on State property;

or

“(bb) is on private property

and is owned by a State; and

“(II) to condemn any real property conveyed to a State for the purpose of obstructing the construction, modification, or operation of an energy transmission facility in accordance with a certificate of public convenience and necessity issued under 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-

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

“(B) REPAYMENT OF CONDEMNATION AWARD.—If an individual or entity described in subparagraph (A)(i) demands the surrender of an interest under that subparagraph, the holder of the applicable certificate of public convenience and necessity shall be entitled to repayment of an amount equal to not more than 50 percent of the condemnation award relating to the interest.

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

“(2) MATERIAL MISREPRESENTATIONS.—

“(A) RESCISSION OF TRANSACTION.—

“(i) IN GENERAL.—An affected landowner that proves, by a preponderance of the evidence, that the affected landowner has granted a right-of-way or any other interest 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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