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(Original Signature of Member)

119TH CONGRESS
1ST SESSION

H. R. _____

To amend the Federal Power Act to prohibit retirements of baseload electric generating units in any area that is served by a Regional Transmission Organization or an Independent System Operator and that the North American Electric Reliability Corporation categorizes as at elevated risk or high risk of electricity supply shortfalls, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mrs. FEDORCHAK introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the Federal Power Act to prohibit retirements of baseload electric generating units in any area that is served by a Regional Transmission Organization or an Independent System Operator and that the North American Electric Reliability Corporation categorizes as at elevated risk or high risk of electricity supply shortfalls, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Baseload Reliability
3 Protection Act”.

4 **SEC. 2. PROHIBITION ON RETIREMENTS AND CONVERSION**
5 **OF FUEL SOURCE FOR ELECTRIC GENER-**
6 **ATING UNITS IN AREAS AT HIGH RISK OR**
7 **ELEVATED RISK OF ELECTRICITY SUPPLY**
8 **SHORTFALLS.**

9 (a) IN GENERAL.—Part II of the Federal Power Act
10 (16 U.S.C. 824 et seq.) is amended by adding after section
11 215A the following:

12 **“SEC. 215B. PROHIBITION ON RETIREMENTS AND CONVER-**
13 **SION OF FUEL SOURCE FOR ELECTRIC GEN-**
14 **ERATING UNITS IN AREAS AT HIGH RISK OR**
15 **ELEVATED RISK OF ELECTRICITY SUPPLY**
16 **SHORTFALLS.**

17 “(a) PROHIBITION.—No operator or partial or sole
18 owner of a covered electric generating unit that is located
19 in a covered area may—

20 “(1) retire such covered electric generating
21 unit; or

22 “(2) convert the fuel source for such covered
23 electric generating unit.

24 “(b) EXEMPTIONS.—

25 “(1) OPERATOR OR OWNER PETITION.—Not
26 later than 90 days after the publication of the most

1 recent long-term reliability assessment categorizing
2 the relevant covered area as at high risk or elevated
3 risk of electricity supply shortfalls, an operator or
4 owner of a covered electric generating unit located in
5 such covered area may submit to the Commission a
6 petition for an exemption from a prohibition under
7 subsection (a) with respect to such covered electric
8 generating unit.

9 “(2) FINAL DETERMINATION.—

10 “(A) DEADLINE.—

11 “(i) IN GENERAL.—Except as other-
12 wise provided in this paragraph, not later
13 than 90 days after a petition for an ex-
14 emption is submitted to the Commission
15 under paragraph (1), the Commission shall
16 issue a final determination granting such
17 exemption or denying the petition for such
18 exemption.

19 “(ii) PETITIONS BASED ON
20 UNPROFITABILITY OR FINANCIAL
21 LOSSES.—Subject to subparagraph (C),
22 with respect to a petition for an exemption
23 under this subsection for a covered electric
24 generating unit that is based on
25 unprofitability or sustained financial

1 losses, if the Commission determines that
2 retirement of, or converting the fuel source
3 for, such covered electric generating unit
4 would hinder the reliable operation of the
5 bulk-power system, the Commission shall,
6 not later than 180 days after such petition
7 is submitted to the Commission under
8 paragraph (1), issue a final determination
9 granting such exemption or denying the
10 petition for such exemption.

11 “(B) CRITERIA.—Subject to subparagraph
12 (C), the Commission shall issue a final deter-
13 mination granting an exemption under this sub-
14 section if the Commission determines—

15 “(i) that the applicable operator or
16 owner of a covered electric generating unit
17 has demonstrated in a petition submitted
18 under paragraph (1) of this subsection
19 that compliance with the relevant prohibi-
20 tion under subsection (a) will result in—

21 “(I) unprofitability of such cov-
22 ered electric generating unit;

23 “(II) sustained financial losses
24 for such operator or owner; or

1 “(III) elevated risk to the safety
2 of workers or public safety; or

3 “(ii) in consultation with the relevant
4 Regional Transmission Organization or
5 Independent System Operator—

6 “(I) that the applicable operator
7 or owner of a covered electric gener-
8 ating unit has demonstrated in a peti-
9 tion submitted under paragraph (1) of
10 this subsection for an exemption from
11 the prohibition under subsection
12 (a)(1) that retirement of the covered
13 electric generating unit will not hinder
14 the reliable operation of the bulk-
15 power system;

16 “(II) that the applicable operator
17 or owner of a covered electric gener-
18 ating unit has demonstrated in a peti-
19 tion submitted under paragraph (1) of
20 this subsection for an exemption from
21 the prohibition under subsection
22 (a)(1), and subject to paragraph (3),
23 that such operator or owner will re-
24 place such covered electric generating
25 unit through the construction or ac-

1 quisition of one or more covered elec-
2 tric generating units with comparable
3 or greater reliability attributes, con-
4 sidering, at a minimum, the
5 dispatchability and availability during
6 peak system demand of the covered
7 electric generating unit that will be
8 retired; or

9 “(III) that the applicable oper-
10 ator or owner of a covered electric
11 generating unit has demonstrated in a
12 petition submitted under paragraph
13 (1) of this subsection for an exemp-
14 tion from the prohibition under sub-
15 section (a)(2) that converting the fuel
16 source for such covered electric gener-
17 ating unit will not diminish the cov-
18 ered electric generating unit’s
19 dispatchability or availability during
20 peak system demand, or otherwise
21 hinder the reliable operation of the
22 bulk-power system.

23 “(C) DOE GRANT OR LOAN FOR CONTIN-
24 UED OPERATION.—

1 “(i) REFERRAL.—With respect to a
2 petition for an exemption under this sub-
3 section from the prohibition under sub-
4 section (a)(1) for a covered electric gener-
5 ating unit that is based on unprofitability
6 or sustained financial losses, if the Com-
7 mission determines that retirement of such
8 covered electric generating unit would
9 hinder the reliable operation of the bulk-
10 power system, the Commission shall refer
11 the petition to the Secretary of Energy.

12 “(ii) LOAN OR GRANT.—With respect
13 to any petition referred to the Secretary of
14 Energy under clause (i), the Secretary
15 shall use funds made available to carry out
16 this clause to make a grant or loan to the
17 applicable operator or owner of the covered
18 electric generating unit in accordance with
19 paragraph (4).

20 “(iii) TREATMENT OF PETITION.—If
21 an operator or owner of a covered electric
22 generating unit receives, not later than
23 180 days after the relevant petition for an
24 exemption is submitted to the Commission
25 under paragraph (1), a grant or loan pur-

1 suant to clause (ii) of this subparagraph,
2 such petition shall be deemed denied for
3 purposes of this subsection.

4 “(3) REPLACEMENT.—An operator or owner of
5 a covered electric generating unit for which an ex-
6 emption is granted under this subsection based on a
7 demonstration that such operator or owner will re-
8 place the covered electric generating unit through
9 the construction or acquisition of one or more other
10 covered electric generating units with comparable or
11 greater reliability attributes may not retire such cov-
12 ered electric generating unit until such covered elec-
13 tric generating unit has been so replaced and such
14 one or more other covered electric generating units
15 have been placed in service.

16 “(4) DOE GRANT OR LOAN TERMS AND FUND-
17 ING.—

18 “(A) FUNDS.—The Secretary of Energy
19 may use unobligated amounts made available to
20 the Secretary under the Infrastructure Invest-
21 ment and Jobs Act (Public Law 117–58) or
22 Public Law 117–169 to make grants and loans
23 under paragraph (2)(C)(ii) and subparagraph
24 (D) of this paragraph.

“(B) GRANTS.—The Secretary of Energy, in consultation with other agencies as the Secretary determines appropriate, may, if the Secretary determines it to be necessary and appropriate, make a grant to an operator or owner of a covered electric generating unit under paragraph (2)(C)(ii) of this subsection in order to provide for the prudent costs for the operation of such covered electric generating unit during any time the prohibition under subsection (a)(1) is in effect with respect to such covered electric generating unit.

“(C) LOANS.—

“(i) USE OF LOAN FUNDS.—A loan made under paragraph (2)(C)(ii)—

“(I) shall be made for purposes of—

“(aa) keeping the relevant covered electric generating unit operating; and

“(bb) providing for the minimum costs for the operation of such covered electric generating unit during any time the prohibition under subsection (a)(1) is in

1 effect with respect to such cov-
2 ered electric generating unit; and

3 “(II) may be made for the addi-
4 tional purposes of—

5 “(aa) providing for the costs
6 of upgrading the capacity of the
7 relevant covered electric gener-
8 ating unit;

9 “(bb) if the relevant covered
10 electric generating unit is a nu-
11 clear power plant, upgrading such
12 covered electric generating unit;
13 or

14 “(cc) modernizing the rel-
15 evant covered electric generating
16 unit for purposes of extending its
17 lifespan.

18 “(ii) TERMS AND CONDITIONS.—Any
19 loan under paragraph (2)(C)(ii) or sub-
20 paragraph (D) of this paragraph shall be
21 made on such terms and conditions as the
22 Secretary of Energy determines appro-
23 priate.

24 “(iii) REVENUE.—Any payments of
25 interest on loans made under paragraph

1 (2)(C)(ii) or subparagraph (D) of this
2 paragraph shall be deposited in the general
3 fund of the Treasury for the sole purpose
4 of deficit reduction.

5 “(D) OTHER LOANS AND GRANTS.—The
6 Secretary of Energy may make a loan or grant
7 to an operator or owner of a covered electric
8 generating unit that is subject to an order
9 under section 202(c) in order to provide for the
10 prudent costs for the operation of such covered
11 electric generating unit during any time such
12 order in effect with respect to such covered elec-
13 tric generating unit.

14 “(5) OTHER CONSIDERATIONS.—In making a
15 final determination under paragraph (2)—

16 “(A) the Commission may not consider the
17 greenhouse gas emissions of a covered electric
18 generating unit, including any impacts of such
19 emissions on atmospheric temperatures or
20 weather systems; and

21 “(B) with respect to a petition for an ex-
22 emption under this subsection for a covered
23 electric generating unit that is based on
24 unprofitability or sustained financial losses, the
25 Commission shall take into consideration any

1 costs alleviated by the protection from penalties
2 under subsection (c).

3 “(6) JUDICIAL REVIEW.—Notwithstanding sec-
4 tion 313, an operator or owner of an electric gener-
5 ating unit who is adversely affected or aggrieved by
6 a final determination issued by the Commission
7 under paragraph (2) may, not later than 60 days
8 after the final determination is issued, file a petition
9 for review of the final determination in the United
10 States Court of Appeals for the District of Columbia
11 Circuit or in the court of appeals for the United
12 States for the circuit in which the party resides or
13 has its principal place of business. Upon the filing
14 of such petition such court shall have jurisdiction to
15 affirm, set aside, or overturn such final determina-
16 tion.

17 “(c) PROTECTION FROM PENALTIES.—An action or
18 omission taken by an operator or owner of a covered elec-
19 tric generating unit to comply with a prohibition under
20 subsection (a) shall be treated as an action or omission
21 taken to comply with an order issued under section 202(c)
22 for purposes of such section. No operator or owner or a
23 covered electric generating unit shall be required to under-
24 take an expenditure in furtherance of a Federal, State,
25 or local environmental law or regulation, performance for

1 which is excused due to the existence of a prohibition
2 under subsection (a).

3 “(d) STANDARDIZED CRITERIA FOR CATEGORIZA-
4 TION OF RISK.—Not later than 60 days after the date
5 of enactment of this section, the Electric Reliability Orga-
6 nization shall determine and publish a standardized prob-
7 abilistic assessment methodology and standardized criteria
8 for categorizing areas as being at high risk, elevated risk,
9 or normal risk of electricity supply shortfalls to be used
10 in each long-term reliability assessment. Such standard-
11 ized methodology and criteria shall be at least as rigorous
12 as the methodology and criteria used in the 2024 long-
13 term reliability assessment.

14 “(e) DEFINITIONS.—In this section:

15 “(1) BULK-POWER SYSTEM.—The term ‘bulk-
16 power system’ has the meaning given such term in
17 section 215(a).

18 “(2) COVERED AREA.—The term ‘covered area’
19 means an area that—

20 “(A) is served by a Regional Transmission
21 Organization or an Independent System Oper-
22 ator; and

23 “(B) the Electric Reliability Organization
24 categorizes, in the most recent long-term reli-

1 ability assessment, as at elevated risk or high
2 risk of electricity supply shortfalls.

3 “(3) COVERED ELECTRIC GENERATING UNIT.—

4 The term ‘covered electric generating unit’ means a
5 dispatchable electric generating unit that—

6 “(A) has greater than or equal to 25
7 megawatts of nameplate capacity;

8 “(B) is interconnected to the bulk-power
9 system; and

10 “(C) does not derive its primary energy
11 input from intermittent renewable sources, with
12 or without energy storage.

13 “(4) ELECTRIC RELIABILITY ORGANIZATION.—

14 The term ‘Electric Reliability Organization’ has the
15 meaning given such term in section 215(a).

16 “(5) LONG-TERM RELIABILITY ASSESSMENT.—

17 The term ‘long-term reliability assessment’ means
18 an annual assessment, conducted by the Electric Re-
19 liability Organization pursuant to section 215(g), of
20 the reliability and adequacy of the bulk-power sys-
21 tem in North America over a 10-year period.

22 “(6) RELIABLE OPERATION.—The term ‘reli-
23 able operation’ has the meaning given such term in
24 section 215(a).”.

1 (b) ENFORCEMENT.—Not later than 1 year after the
2 date of enactment of this Act, the Federal Energy Regu-
3 latory Commission shall submit to Congress a report on
4 whether existing oversight and enforcement mechanisms
5 for section 215B of the Federal Power Act, as added by
6 subsection (a) of this section, are sufficient, including any
7 recommendations to improve such mechanisms.