



## H.R. 2883 — Promoting Cross-Border Energy Infrastructure Act (Rep. Mullin, R-OK)

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### FLOOR SCHEDULE:

Scheduled for consideration on July 19, 2017 under a structured [rule](#).

### TOPLINE SUMMARY:

[H.R. 2883](#) would establish a statutory process to permit the construction or operation of a border-crossing facility for the import or export of oil, natural gas, or electricity across an international border.

### COST:

The Congressional Budget Office (CBO) has [estimated](#) implementing H.R. 2883 have no significant net effect on the federal budget. Department of Energy administrative costs of implementing the bill would not exceed \$500,000 annually, subject to appropriated funds. In addition, the Federal Energy Regulatory Commission recovers 100% of costs through user fees. The bill would not increase net direct spending or on-budget deficits in any of the four consecutive year periods beginning in 2028. The bill would not affect direct spending or revenues so pay-as-you-go would not apply.

### CONSERVATIVE CONCERNS:

There are no substantive concerns.

- **Expand the Size and Scope of the Federal Government?** No.
- **Encroach into State or Local Authority?** No.
- **Delegate Any Legislative Authority to the Executive Branch?** No.
- **Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?** No.

### DETAILED SUMMARY AND ANALYSIS:

Currently, facilities wanting to construct and operate a border-crossing facility for the import or export of oil, natural gas or electricity across an international border must obtain a Presidential Permit, as established in [Executive Order 11423](#). This bill would create a statutory process for permitting these facilities and explicitly state that a Presidential Permit is not required to construct or operate a facility.

H.R. 2883 requires a certificate of crossing for the construction or operation of a border-crossing facility for the import or export of oil, natural gas, or electricity across an international border.

This bill requires the relevant federal agency to issue a certificate of crossing for a border-crossing facility within 120 days after final action is taken unless the agency finds the construction or operation is not in the public interest. The relevant federal agency is designated as the Federal Energy Regulatory Commission

(FERC) for oil or natural gas pipelines and the Secretary of Energy for electric transmission facilities. In addition, the Secretary of Energy must require electric transmission facilities to comply with the Electric Reliability Organization and the relevant regional transmission organization or independent system operator. The FERC and the Secretary of Energy must notice proposed rulemaking to carry out this section within 180 days and publish the final rule within one year of enactment.

A certificate of crossing is not needed for facilities that are already operating, or facilities for which the permit has already been issued by enactment. A certificate is also not needed if the application for the permit is pending by enactment. This is revoked upon denial or once 2 years have passed since enactment.

H.R. 2883 does not affect the application of other federal statutes to border-crossing facility projects. The bill does not affect the requirement to obtain the approval to construct or operate a facility to import or export gas. This bill does not affect the FERC's authority in regards to oil pipelines under [49 U.S.C. 60502](#).

The bill amends [15 U.S.C. 717b\(c\)](#) to require the FERC to grant applications to import or export natural gas to and from Canada or Mexico.

The bill repeals [16 U.S.C. 824a\(e\)](#), which prohibits persons from transmitting electric energy to a foreign country without an authorizing order from the FERC.

The provisions of the bill would take effect 1 year after enactment.

The House Report (H. Rept. 115-225) accompanying H.R. 2883 can be found [here](#).

#### **AMENDMENTS:**

1. [Rep. Engel](#) (D-NY) – This amendment would designate the Secretary of State as a relevant official in issuing certificates of crossing for border-crossing oil pipelines. The underlying bill designates the FERC as the relevant agency for border-crossing oil pipelines.
2. [Rep. Tsongas](#) (D-MA) – This amendment would prohibit the issuance of certificates of crossing for border-crossing facilities that are located on lands that have been designated for natural resource conservation or recreation by federal, state or local law.
3. [Rep. Veasey](#) (D-TX) – The amendment would prevent the underlying bill from modifying the National Environmental Policy Act ([42 U.S.C. 4321 et seq.](#)) review requirements for facilities applying for a certificate of crossing. The underlying bill already includes language ensuring that the application of other federal statutes, like NEPA, would not be impacted by this act.

#### **COMMITTEE ACTION:**

H.R. 2883 was introduced on June 12, 2017. The bill was referred to the House Committees on Energy and Commerce, Transportation and Infrastructure and Natural Resources. The House Committee on Energy and Commerce held a mark-up and the bill was reported by a vote of 31-20.

#### **ADMINISTRATION POSITION:**

A Statement of Administration Policy is not available.

#### **CONSTITUTIONAL AUTHORITY:**

According to the bill's sponsor: Congress has the power to enact this legislation pursuant to the following: "The Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States, or in any Department or Officer thereof."

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