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Fact Sheet on H.R. 2883

Promoting Cross-Border Energy Infrastructure Act

Committee on Energy and Commerce, Democratic Staff

H.R. 2883 eliminates the current requirement that proposed oil and natural gas pipelines and electric transmission lines that cross the U.S. border with Mexico or Canada obtain a presidential permit, after an environmental review and determination that the project is in the national interest. The bill replaces this with a process that limits environmental review to a narrow portion of the project, exempts certain types of projects from any permit requirement, and shifts the burden of proof to make it difficult to disapprove a project. The bill also allows a project that is rejected under current law to reapply under the new, weaker process, and exempts all modifications to existing cross-border projects from any requirement for federal review or approval.

The Bill Limits Environmental Review to a Tiny Sliver of the Cross-Border Project

The bill effectively exempts cross-border projects from environmental review under the National Environmental Policy Act (NEPA) by dramatically narrowing the focus of that review. Under the bill, the permit requirement and NEPA review apply only to the “border-crossing facility,” defined as the small segment of the project that physically crosses the border. Trans-boundary pipelines and transmission lines are multi-billion dollar infrastructure investments that stretch hundreds of miles, last for decades, and pose environmental risks well beyond the border crossing. But the bill precludes review of the full project’s impacts, such as oil spills and the consequences for landowners, public safety, drinking water, climate change, and wildlife.

The Bill Tips the Scales in Favor of Cross-Border Project Approval

The bill eliminates the requirement that to issue a permit, the federal permitting agency must find the project to be in the national interest. Instead, the bill requires an agency to approve the project, unless it finds that the narrow segment that crosses the border is not in the public interest of the United States. This provision makes it extremely difficult – if not impossible – for an agency ever to deny a permit, and it largely eliminates the ability to approve a permit subject to protective conditions.

The Bill Exempts Controversial Pipeline Modifications from Any Review

Under the bill’s new permitting process, controversial modifications to existing cross-border pipelines or transmission lines would not require any federal approval and would not be subject to any environmental review. Many modifications, such as expanding a pipeline’s capacity, reversing its flow, or changing its contents, could have environmental impacts just as significant as those resulting from an entirely new project.

The Bill Keeps the Public in the Dark

The bill would allow large and long-lived cross-border energy projects to be approved with no understanding or consideration of their environmental impacts or to be exempted from any permitting requirement at all. The bill assumes these projects are always in the public interest, regardless of the merits. The public, including communities and landowners directly affected by the projects, would have little or no information and no opportunity to object or request mitigating action, except to the extent provided under limited state laws.