

116TH CONGRESS
2D SESSION

S. 3688

To amend the Federal Power Act to authorize the Federal Energy Regulatory Commission and the Secretary of Energy to offer assistance in securing the assets of the owners and operators of energy infrastructure against threats and increasing the security of the electric grid, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 12, 2020

Ms. MURKOWSKI (for herself and Mr. RISCH) 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 authorize the Federal Energy Regulatory Commission and the Secretary of Energy to offer assistance in securing the assets of the owners and operators of energy infrastructure against threats and increasing the security of the electric grid, 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 “Energy Infrastructure
5 Protection Act of 2020”.

1 **SEC. 2. SENSE OF CONGRESS.**

2 It is the sense of Congress that—

3 (1) electrical energy is essential to civil society;

4 (2) the infrastructure that delivers electrical en-
5 ergy to the people of the United States has been vul-
6 nerable to attacks of varying scope for more than
7 100 years;

8 (3) with the ready availability of information
9 about electric infrastructure, and the ease of inter-
10 national travel for individuals who seek to harm the
11 United States, threats to electric infrastructure have
12 multiplied in recent years;

13 (4) the geographic barriers of the Pacific Ocean
14 and the Atlantic Ocean no longer provide sufficient
15 protection for the people of the United States
16 against threats to electric infrastructure, especially
17 for threats coming from cyberspace;

18 (5) electric infrastructure around the world has
19 been attacked during times of war and times of
20 peace, on the ground and in cyberspace, by—

21 (A) individuals;

22 (B) criminal organizations; and

23 (C) foreign countries;

24 (6) like electric infrastructure, the fuel sup-
25 pliers and other vendors who supply the electricity

1 industry are vulnerable to attacks designed to dis-
2 rupt electricity service;

3 (7) before and during World War II, the Fed-
4 eral Power Commission assisted owners and opera-
5 tors of energy infrastructure in defending the assets
6 of those owners and operators;

7 (8) the Department of Energy and the Federal
8 Energy Regulatory Commission carry on the legacy
9 of security assistance established by the Federal
10 Power Commission;

11 (9) the Department of Energy, assisted by the
12 expertise at the National Laboratories, and utilizing
13 the statutory role of the Department as the lead
14 Federal agency for cybersecurity in the energy sec-
15 tor, has acted to assist owners and operators of elec-
16 tric infrastructure when those owners and operators
17 defend their assets;

18 (10) the Federal Energy Regulatory Commis-
19 sion, utilizing the jurisdiction of the Commission
20 over matters of cost recovery and electric reliability,
21 has acted to assist owners and operators of electric
22 infrastructure when those owners and operators de-
23 fend their assets;

24 (11) owners and operators of electric infrastruc-
25 ture, entities involved with electric infrastructure,

1 the Federal Energy Regulatory Commission, the De-
2 partment of Energy, other Federal departments and
3 agencies, States, and units of local government have
4 information that—

5 (A) can be used by those who seek to harm
6 the United States to disrupt electricity service;
7 and

8 (B) should be protected from excessive dis-
9 closure; and

10 (12) owners and operators of electric infrastruc-
11 ture—

12 (A) have been acting to reduce the vulner-
13 ability of their assets; and

14 (B) should have better opportunities to
15 further reduce the vulnerability of their assets.

16 **SEC. 3. PROTECTING ENERGY INFRASTRUCTURE.**

17 (a) IN GENERAL.—Part II of the Federal Power Act
18 (16 U.S.C. 824 et seq.) is amended—

19 (1) by adding at the end the following:

20 **“Subpart B—Protecting Energy Infrastructure”;**

21 (2) by redesignating section 215A (16 U.S.C.
22 824o–1) as section 230, and moving that section so
23 as to appear at the beginning of subpart B (as
24 added by paragraph (1)); and

1 (3) by inserting after section 201 (16 U.S.C.
2 824) the following:

3 **“Subpart A—General Requirements”.**

4 (b) DEFINITIONS.—Section 230 of the Federal Power
5 Act (as redesignated by subsection (a)(2)) is amended—

6 (1) in the section heading, by striking
7 **“CRITICAL ELECTRIC INFRASTRUCTURE SECUR-**
8 **ITY”** and inserting **“DEFINITIONS”**;

9 (2) in subsection (a)—

10 (A) in the matter preceding paragraph (1),
11 by striking the subsection designation and
12 heading and all that follows through “this sec-
13 tion:” and inserting the following:

14 “In this subpart:”;

15 (B) in paragraph (1), by striking “such
16 terms” and all that follows through “respec-
17 tively.” and inserting “the terms in section
18 215(a).”;

19 (C) by redesignating paragraphs (2), (3),
20 (4), (5), (6), (7), and (8) as paragraphs (3),
21 (4), (5), (6), (8), (9), and (12), respectively;

22 (D) by inserting after paragraph (1) the
23 following:

1 “(2) COMMISSION.—The term ‘Commission’
2 means the Federal Energy Regulatory Commis-
3 sion.”;

4 (E) in paragraph (3) (as so redesignated),
5 by inserting “energy infrastructure or” after
6 “means”;

7 (F) by striking paragraph (4) (as so redesi-
8 gnated) and inserting the following:

9 “(4) CRITICAL ELECTRIC INFRASTRUCTURE IN-
10 FORMATION.—

11 “(A) IN GENERAL.—The term ‘critical
12 electric infrastructure information’ means infor-
13 mation relating to critical electric infrastruc-
14 ture, or proposed critical electric infrastructure,
15 that—

16 “(i) is generated by, or provided to,
17 the Secretary, the Commission, or any
18 other Federal department or agency;

19 “(ii) is not classified national security
20 information; and

21 “(iii) is designated as critical electric
22 infrastructure information by the Secretary
23 or the Commission under section 231(e) or
24 235.

1 “(B) INCLUSIONS.—The term ‘critical elec-
 2 tric infrastructure information’ includes any in-
 3 formation that qualified as critical energy infra-
 4 structure information under the regulations of
 5 the Commission in effect on the day before the
 6 date of enactment of the Energy Infrastructure
 7 Protection Act of 2020.”;

8 (G) in paragraph (5) (as so redesignated),
 9 by striking “subsection (c)” and inserting “sec-
 10 tion 231(b)”;

11 (H) by inserting after paragraph (6) (as so
 12 redesignated) the following:

13 “(7) ENERGY INFRASTRUCTURE.—The term
 14 ‘energy infrastructure’ includes—

15 “(A) systems or assets comprising the
 16 bulk-power system;

17 “(B) systems or assets owned by electric
 18 utilities;

19 “(C) systems or assets that—

20 “(i) allow for the transportation of
 21 fuel, electricity, water, steam, heat, cold, or
 22 any commodity that is used in the provi-
 23 sion of electricity service; and

24 “(ii) facilitate the delivery of—

1 “(I) electrical energy to con-
2 sumers;

3 “(II) wholesale transactions in
4 electrical energy; or

5 “(III) the import or export of
6 electrical energy; and

7 “(D) all systems or assets subject to the
8 jurisdiction of the Commission, including—

9 “(i) pipelines for the transportation of
10 oil;

11 “(ii) natural gas pipelines; and

12 “(iii) water resources.”;

13 (I) by inserting after paragraph (9) (as so
14 redesignated) the following:

15 “(10) NATURAL GAS; NATURAL-GAS COM-
16 PANY.—The terms ‘natural gas’ and ‘natural-gas
17 company’ have the meanings given the terms in sec-
18 tion 2 of the Natural Gas Act (15 U.S.C. 717a).

19 “(11) OIL; OIL PIPELINE.—The terms ‘oil’ and
20 ‘oil pipeline’ have the meanings given the terms in
21 section 1804 of the Energy Policy Act of 1992 (42
22 U.S.C. 7172 note; Public Law 102–486).”; and

23 (J) by inserting after paragraph (12) (as
24 so redesignated) the following:

1 “(13) SOURCE OF THE INFORMATION.—The
2 term ‘source of the information’ means—

3 “(A) the electric utility, Transmission Or-
4 ganization, natural-gas company, licensee, or oil
5 pipeline that provides to the Secretary or the
6 Commission, as applicable, critical electric in-
7 frastructure information, including—

8 “(i) critical electric infrastructure in-
9 formation that is provided directly to the
10 Secretary or the Commission by the elec-
11 tric utility, Transmission Organization,
12 natural-gas company, licensee, or oil pipe-
13 line; and

14 “(ii) critical electric infrastructure in-
15 formation that is provided to the Secretary
16 or the Commission by an intermediary;

17 “(B) the Secretary, with respect to critical
18 electric infrastructure information that is cre-
19 ated by the Secretary;

20 “(C) the Commission, with respect to crit-
21 ical electric infrastructure information that is
22 created by the Commission; and

23 “(D) with respect to any critical electric
24 infrastructure information not described in sub-
25 paragraphs (A) through (C), the individual or

1 entity that provides to the Secretary or the
2 Commission, as applicable, the critical electric
3 infrastructure information.”; and

4 (3) by inserting before subsection (b) the fol-
5 lowing:

6 **“SEC. 231. CRITICAL ELECTRIC INFRASTRUCTURE SECUR-**
7 **RITY.”.**

8 (c) CRITICAL ELECTRIC INFRASTRUCTURE SECUR-
9 RITY.—Section 231 of the Federal Power Act (as des-
10 ignated by subsection (b)(3)) is amended—

11 (1) by redesignating subsections (b) through (f)
12 as subsections (a) through (e), respectively;

13 (2) in paragraph (6)(B) of subsection (a) (as so
14 redesignated), by striking “subsection (c)” and in-
15 serting “subsection (b)”;

16 (3) in subsection (c) (as so redesignated)—

17 (A) in paragraph (2)—

18 (i) in the matter preceding subpara-
19 graph (A), by striking “Not later” and all
20 that follows through “shall” and inserting
21 “Each of the Secretary and the Commis-
22 sion, after consultation with the other,
23 shall”;

24 (ii) in subparagraph (A), by adding
25 “and” at the end after the semicolon;

1 (iii) in subparagraph (B), by striking
2 the semicolon at the end and inserting a
3 period; and

4 (iv) by striking subparagraphs (C)
5 and (D);

6 (B) by striking paragraph (3) and insert-
7 ing the following:

8 “(3) AUTHORITY TO DESIGNATE.—

9 “(A) IN GENERAL.—The Secretary and the
10 Commission may each designate information as
11 critical electric infrastructure information pur-
12 suant to the criteria and procedures established
13 by the Secretary or the Commission, as applica-
14 ble, under paragraph (2)(A).

15 “(B) SUBMISSION OF REQUEST FOR DES-
16 IGNATION.—

17 “(i) IN GENERAL.—Any individual or
18 entity may request that—

19 “(I) the Secretary designate in-
20 formation in the possession of the
21 Secretary as critical electric infra-
22 structure information; and

23 “(II) the Commission designate
24 information in the possession of the

1 Commission as critical electric infra-
2 structure information.

3 “(ii) TREATMENT OF INFORMATION
4 SUBMITTED FOR DESIGNATION.—On re-
5 ceipt of a request under clause (i), the Sec-
6 retary or the Commission, as applicable,
7 shall treat the information that is the sub-
8 ject of the request as critical electric infra-
9 structure information until the earlier of—

10 “(I) the date on which the Sec-
11 retary or the Commission, as applica-
12 ble, designates the information as crit-
13 ical electric infrastructure informa-
14 tion; and

15 “(II) the date that is 21 days
16 after the date on which the Secretary
17 or the Commission, as applicable, pro-
18 vides written notice to the individual
19 or entity that submitted the request
20 that the request is denied.

21 “(C) CONFLICTS BETWEEN DESIGNATIONS
22 BY THE SECRETARY AND THE COMMISSION.—

23 “(i) INITIAL MEETING.—In the event
24 of a conflict between a designation made
25 by the Secretary and a designation made

1 by the Commission as to whether certain
2 information is critical electric infrastruc-
3 ture information, and the conflict has a
4 material impact on the work of the Sec-
5 retary or the Commission, the Secretary
6 and the Commission shall confer to resolve
7 the conflict for the purpose of achieving
8 consistency across the Federal Government
9 in the designation of the information.

10 “(ii) UNRESOLVED CONFLICTS.—If
11 the Secretary and the Commission are un-
12 able to resolve a conflict under clause (i)—

13 “(I) the Commission may con-
14 tinue to designate any information in
15 the possession of the Commission ac-
16 cording to the criteria and procedures
17 established by the Commission under
18 paragraph (2)(A); and

19 “(II) the Secretary may continue
20 to designate any information in the
21 possession of the Department of En-
22 ergy according to the criteria and pro-
23 cedures established by the Secretary
24 under paragraph (2)(A).”;

25 (C) in paragraph (8)—

1 (i) by striking “In implementing” and
2 all that follows through “shall” and insert-
3 ing the following:

4 “(A) IN GENERAL.—In implementing this
5 section, the Secretary and the Commission shall
6 reasonably attempt to”; and

7 (ii) by adding at the end the fol-
8 lowing:

9 “(B) EFFECT OF FAILURE TO SEGREGATE
10 INFORMATION.—A failure to segregate any par-
11 ticular information under subparagraph (A)
12 shall not result in an inference or finding that
13 the information should not be entitled to protec-
14 tion as critical electric infrastructure informa-
15 tion.”;

16 (D) by striking paragraphs (9) and (10)
17 and inserting the following:

18 “(9) DURATION OF DESIGNATION.—

19 “(A) IN GENERAL.—Except as provided in
20 subparagraph (B), information may not be des-
21 ignated as critical electric infrastructure infor-
22 mation for a period longer than the information
23 is related to energy infrastructure in service.

24 “(B) REDESIGNATION.—Any information
25 may be redesignated by the Secretary or the

1 Commission as critical electric infrastructure
2 information before, on, or after the date on
3 which an earlier designation has expired.

4 “(C) VULNERABILITIES AND THREATS.—
5 Information about a vulnerability or threat to
6 energy infrastructure, or the planning and con-
7 struction of a system or asset that is intended
8 to address a vulnerability or threat to energy
9 infrastructure, may be designated as critical
10 electric infrastructure information—

11 “(i) for the period during which the
12 vulnerability or threat exists; and

13 “(ii) for any additional period deter-
14 mined to be appropriate by the Secretary
15 or the Commission, as applicable.

16 “(10) REMOVAL OF DESIGNATION.—The Sec-
17 retary or the Commission, as applicable, shall re-
18 move the designation of critical electric infrastruc-
19 ture information, in whole or in part, from a docu-
20 ment or electronic communication if the Secretary or
21 the Commission, as applicable, determines that the
22 unauthorized disclosure of the information so des-
23 ignated could no longer be used to impair the secu-
24 rity or reliability of energy infrastructure, the bulk-
25 power system, or distribution facilities.”; and

1 (E) by adding at the end the following:

2 “(12) NO IMMEDIATE OBLIGATION TO DES-
3 IGNATE.—Any request for designation submitted to
4 the Secretary or the Commission need not be consid-
5 ered by the Secretary or the Commission, as applica-
6 ble, until the information that is the subject of the
7 request for designation becomes the subject of any
8 request to disclose, including a request under—

9 “(A) section 552 of title 5, United States
10 Code; or

11 “(B) any applicable law (including any
12 Federal, State, political subdivision, or Tribal
13 law) requiring public disclosure of information
14 or records.

15 “(13) EFFECT OF PRIOR DETERMINATIONS.—A
16 prior determination by the Secretary or the Commis-
17 sion that certain information is not critical electric
18 infrastructure information shall not affect the au-
19 thority of the Secretary or the Commission to later
20 designate that information as critical electric infra-
21 structure information.”; and

22 (4) in subsection (e) (as so redesignated)—

23 (A) in paragraph (1), by striking “sub-
24 section (b)(1)” and inserting “subsection
25 (a)(1)”;

1 (B) in paragraph (2), by striking “sub-
 2 section (b)(1)” and inserting “subsection
 3 (a)(1)”;

4 (C) in paragraph (3), by striking “sub-
 5 section (d)” and inserting “subsection (c) or
 6 any of sections 232 through 235, as applica-
 7 ble”; and

8 (D) in paragraph (4)—

9 (i) by striking “subsection (b)(1)” and
 10 inserting “subsection (a)(1)”; and

11 (ii) by striking “paragraph (1) or (2
 12)” and inserting “paragraph (1) or (2)”.

13 (d) ASSISTANCE, ACCESS, AND ENFORCEMENT.—
 14 Subpart B of part II of the Federal Power Act (as added
 15 by subsection (a)(1)) is amended by adding at the end the
 16 following:

17 **“SEC. 232. AUTHORITY OF THE COMMISSION TO OFFER AS-**
 18 **SISTANCE TO OWNERS AND OPERATORS OF**
 19 **ENERGY INFRASTRUCTURE.**

20 “(a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
 21 tion, the term ‘eligible entity’ means—

22 “(1) an authority of a State, political subdivi-
 23 sion, or Indian Tribe;

24 “(2) a Transmission Organization;

25 “(3) an electric utility;

1 “(4) a natural-gas company;

2 “(5) an oil pipeline; and

3 “(6) any other owner or operator of energy in-
4 frastructure.

5 “(b) VOLUNTARY ASSISTANCE ON REQUEST.—On re-
6 quest of an eligible entity, the Commission may provide
7 assistance to the eligible entity—

8 “(1) by reviewing the configuration of the as-
9 sets of the eligible entity against threats;

10 “(2) by reviewing the capability of the eligible
11 entity to operate its assets after attacks on those as-
12 sets;

13 “(3) by providing information about methods
14 and tools that owners and operators of energy infra-
15 structure may use to defend assets against threats;

16 “(4) by providing information regarding other
17 resources that may be available to assist the eligible
18 entity; and

19 “(5) by reviewing data and other assets in the
20 possession of the eligible entity—

21 “(A) for evidence that the data or other
22 asset—

23 “(i) has been tampered with; or

24 “(ii) has otherwise been the subject of
25 threat activity; and

1 “(B) while ensuring an adequate chain of
2 custody to enable criminal investigation and
3 prosecution.

4 “(c) RELEASE OF INFORMATION.—

5 “(1) PROTECTION OF INFORMATION.—Any in-
6 formation collected or created by the Commission in
7 carrying out activities under subsection (b), includ-
8 ing any report prepared under subsection
9 (g)(1)(A)—

10 “(A) to the extent that the information is
11 not already designated as critical electric infra-
12 structure information, shall be handled by the
13 Commission as if it had been designated by the
14 Commission as critical electric infrastructure
15 information under this subpart;

16 “(B) shall be exempt from disclosure under
17 section 552(b)(3) of title 5, United States Code;
18 and

19 “(C) shall not be made available by any
20 Federal, State, political subdivision, or Tribal
21 authority under any applicable law requiring
22 public disclosure of information or records.

23 “(2) VOLUNTARY RELEASE.—

24 “(A) CONSENT REQUIRED.—Subject to
25 subparagraph (C), if the source of any informa-

1 tion described in paragraph (1) provides con-
2 sent, the Commission may share that informa-
3 tion with—

4 “(i) the Electric Reliability Organiza-
5 tion;

6 “(ii) a regional entity;

7 “(iii) an information sharing and
8 analysis center; or

9 “(iv) an authority of a State, political
10 subdivision, or Indian Tribe that is in-
11 volved in protecting energy infrastructure
12 from threats.

13 “(B) ADVANCE CONSENT.—Consent to the
14 disclosure of information by the Commission
15 under subparagraph (A) may—

16 “(i) be provided in advance of the dis-
17 closure of that information to, or the cre-
18 ation of that information by, the Commis-
19 sion; and

20 “(ii) be a condition precedent to ob-
21 taining assistance from the Commission
22 under this section.

23 “(C) LIMITATION.—Any information that
24 is shared with an authority described in sub-
25 paragraph (A)(iv) shall be exempt from dislo-

1 sure by the authority as if that information
2 were in the possession of the Commission under
3 this subsection.

4 “(3) RELEASE TO FEDERAL AUTHORITIES.—

5 “(A) CONSENT NOT REQUIRED.—The
6 Commission may share any information de-
7 scribed in paragraph (1) with a Federal author-
8 ity regardless of whether the source of that in-
9 formation consents to the disclosure.

10 “(B) LIMITATION.—Any information that
11 is shared with a Federal authority under sub-
12 paragraph (A) shall be exempt from disclosure
13 by the Federal authority as if that information
14 were in the possession of the Commission under
15 this subsection.

16 “(d) WITHDRAWAL OF REQUEST.—

17 “(1) IN GENERAL.—An eligible entity may
18 withdraw a request for assistance under subsection
19 (b) at any time.

20 “(2) EFFECT.—On withdrawal of a request
21 under paragraph (1), the Commission shall—

22 “(A) terminate all assistance; and

23 “(B) to the maximum extent practicable,
24 and subject to any Federal law applicable to the
25 Commission regarding retention of records, re-

1 turn to the eligible entity all information that
2 the Commission received from the eligible enti-
3 ty.

4 “(e) USE OF INFORMATION.—

5 “(1) INFORMATION PROVIDED FOR ASSIST-
6 ANCE.—Any information that is provided by an eligi-
7 ble entity to the Commission for the purpose of ob-
8 taining assistance under subsection (b) may not be
9 used as a basis for any order, rule, opinion, or deci-
10 sion of the Commission.

11 “(2) INFORMATION OBTAINED BY OTHER
12 MEANS.—Subject to applicable law, if the informa-
13 tion described in paragraph (1) is obtained by the
14 Commission in a manner other than the manner de-
15 scribed in that paragraph, the Commission may use
16 that information in any manner that the Commis-
17 sion determines to be appropriate if—

18 “(A) the Commission segregates the infor-
19 mation described in paragraph (1) from infor-
20 mation that is obtained by the Commission in
21 a manner not described in that paragraph; and

22 “(B) the information described in para-
23 graph (1) has been and is reviewed only by in-
24 dividuals authorized by the Commission to pro-
25 vide assistance under subsection (b).

1 “(3) INFORMAL STAFF ADVICE.—An officer,
2 employee, agent, or contractor of the Commission
3 may advise an eligible entity that information pro-
4 vided to the Commission for the purpose of obtain-
5 ing assistance under subsection (b) should also be
6 provided to the Commission for purposes unrelated
7 to assistance under subsection (b).

8 “(f) EFFECT.—Nothing in this section—

9 “(1) authorizes the Commission to require any
10 eligible entity to adopt any advice, report, rec-
11 ommendation, best practice, finding, model, tool,
12 method, plan, analysis, or assessment made by the
13 Commission under this section; or

14 “(2) relieves an eligible entity from any obliga-
15 tion to comply with a lawful order or rule of the
16 Commission.

17 “(g) REPORTS FOR ELIGIBLE ENTITIES.—

18 “(1) IN GENERAL.—The Commission may pre-
19 pare reports—

20 “(A) for an eligible entity that requests as-
21 sistance under subsection (b); and

22 “(B) for eligible entities generally.

23 “(2) AUTHORITY.—The Commission shall have
24 sole discretion to prepare a report under paragraph
25 (1).

1 “(3) REQUIREMENT.—A report under para-
2 graph (1) shall not identify an eligible entity without
3 the consent of that eligible entity.

4 “(4) EFFECT.—A report under paragraph
5 (1)—

6 “(A) shall not be binding on the Commis-
7 sion; and

8 “(B) shall not relieve an eligible entity
9 from any obligation to comply with any applica-
10 ble order or rule of the Commission.

11 “(h) SAVINGS CLAUSE.—Nothing in this section af-
12 fects in any manner the authority, existing on the day be-
13 fore the date of enactment of the Energy Infrastructure
14 Protection Act of 2020, of—

15 “(1) the Electric Reliability Organization;

16 “(2) a regional entity;

17 “(3) an information sharing and analysis cen-
18 ter; or

19 “(4) a component of any Federal department or
20 agency other than the Commission, including the au-
21 thority provided to—

22 “(A) the Cybersecurity and Infrastructure
23 Security Agency;

24 “(B) the national cybersecurity and com-
25 munications integration center established

1 under section 2209(b) of the Homeland Secu-
2 rity Act of 2002 (6 U.S.C. 659(b)); and

3 “(C) the Sector-Specific Agency specified
4 in section 61003(c)(2) of the FAST Act (6
5 U.S.C. 121 note; Public Law 114–94).

6 **“SEC. 233. AUTHORITY OF THE SECRETARY TO OFFER AS-**
7 **SISTANCE TO OWNERS AND OPERATORS OF**
8 **ENERGY INFRASTRUCTURE.**

9 “(a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
10 tion, the term ‘eligible entity’ means—

11 “(1) an authority of a State, political subdivi-
12 sion, or Indian Tribe;

13 “(2) a Transmission Organization;

14 “(3) an electric utility;

15 “(4) a natural-gas company;

16 “(5) an oil pipeline; and

17 “(6) any other owner or operator of energy in-
18 frastructure.

19 “(b) VOLUNTARY ASSISTANCE ON REQUEST.—On
20 the request of an eligible entity, the Secretary may provide
21 assistance to the eligible entity—

22 “(1) by reviewing the configuration of the as-
23 sets of the eligible entity against threats;

1 “(2) by reviewing the capability of the eligible
2 entity to operate its assets after attacks on those as-
3 sets;

4 “(3) by providing information about methods
5 and tools that owners and operators of energy infra-
6 structure may use to defend their assets against
7 threats;

8 “(4) by providing information regarding other
9 resources that may be available to assist the eligible
10 entity;

11 “(5) by reviewing data and other assets in the
12 possession of the eligible entity—

13 “(A) for evidence that the data or other
14 asset—

15 “(i) has been tampered with; or

16 “(ii) has otherwise been the subject of
17 threat activity; and

18 “(B) while ensuring an adequate chain of
19 custody to enable criminal investigation and
20 prosecution;

21 “(6) by monitoring sensor data and other infor-
22 mation flows of the eligible entity; and

23 “(7) by testing equipment and other assets of
24 the eligible entity.

1 “(c) RESEARCH AND PLANNING.—The Secretary
2 shall carry out a program—

3 “(1) to gather information about the tools and
4 methods that have been used to penetrate or defend
5 any eligible entity or industrial control system, in-
6 cluding information about those tools and methods
7 that is available from—

8 “(A) the Department of Homeland Secu-
9 rity;

10 “(B) the Department of Defense;

11 “(C) any other Federal department or
12 agency; and

13 “(D) any eligible entity;

14 “(2) to research and plan to ensure that the
15 Federal Government has access to energy infrastruc-
16 ture during a time of war or national crisis; and

17 “(3) to research and plan the response of the
18 Secretary in the event that owners and operators of
19 energy infrastructure are attacked.

20 “(d) RELEASE OF INFORMATION.—

21 “(1) PROTECTION OF INFORMATION.—Any in-
22 formation collected or created by the Secretary in
23 carrying out activities under subsection (b), includ-
24 ing any report prepared under subsection
25 (h)(1)(A)—

1 “(A) to the extent that the information is
2 not already designated as critical electric infra-
3 structure information, shall be handled by the
4 Secretary as if it had been designated by the
5 Secretary as critical electric infrastructure in-
6 formation under this subpart;

7 “(B) shall be exempt from disclosure under
8 section 552(b)(3) of title 5, United States Code;
9 and

10 “(C) shall not be made available by any
11 Federal, State, political subdivision, or Tribal
12 authority under any applicable law requiring
13 public disclosure of information or records.

14 “(2) VOLUNTARY RELEASE.—

15 “(A) CONSENT REQUIRED.—Subject to
16 subparagraph (C), if the source of any informa-
17 tion described in paragraph (1) provides con-
18 sent, the Secretary may share that information
19 with—

20 “(i) the Electric Reliability Organiza-
21 tion;

22 “(ii) a regional entity;

23 “(iii) an information sharing and
24 analysis center; or

1 “(iv) an authority of a State, political
2 subdivision, or Indian Tribe that is in-
3 volved in protecting energy infrastructure
4 from threats.

5 “(B) ADVANCE CONSENT.—Consent to the
6 disclosure of information by the Secretary
7 under subparagraph (A) may—

8 “(i) be provided in advance of the dis-
9 closure of that information to, or the cre-
10 ation of that information by, the Secretary;
11 and

12 “(ii) be a condition precedent to ob-
13 taining assistance from the Secretary
14 under this section.

15 “(C) LIMITATION.—Any information that
16 is shared with an authority described in sub-
17 paragraph (A)(iv) shall be exempt from disclo-
18 sure by the authority as if that information
19 were in the possession of the Secretary under
20 this subsection.

21 “(3) RELEASE TO FEDERAL AUTHORITIES.—

22 “(A) CONSENT NOT REQUIRED.—The Sec-
23 retary may share any information described in
24 paragraph (1) with a Federal authority regard-

1 less of whether the source of that information
2 consents to the disclosure.

3 “(B) LIMITATION.—Any information that
4 is shared with a Federal authority under sub-
5 paragraph (A) shall be exempt from disclosure
6 by the Federal authority as if that information
7 were in the possession of the Secretary under
8 this subsection.

9 “(e) WITHDRAWAL OF REQUEST.—

10 “(1) IN GENERAL.—An eligible entity may
11 withdraw a request for assistance under subsection
12 (b) at any time.

13 “(2) EFFECT.—On withdrawal of a request
14 under paragraph (1), the Secretary shall—

15 “(A) terminate all assistance; and

16 “(B) to the maximum extent practicable,
17 and subject to any Federal law applicable to the
18 Secretary regarding retention of records, return
19 to the eligible entity all information that the
20 Secretary received from the eligible entity.

21 “(f) USE OF INFORMATION.—

22 “(1) INFORMATION PROVIDED FOR ASSIST-
23 ANCE.—Any information that is provided by an eligi-
24 ble entity to the Secretary for the purpose of obtain-
25 ing assistance under subsection (b) may not be used

1 as a basis for any order, rule, opinion, or decision
2 of the Secretary.

3 “(2) INFORMATION OBTAINED BY OTHER
4 MEANS.—Subject to applicable law, if the informa-
5 tion described in paragraph (1) is obtained by the
6 Secretary in a manner other than the manner de-
7 scribed in that paragraph, the Secretary may use
8 that information in any manner that the Secretary
9 determines to be appropriate if—

10 “(A) the Secretary segregates the informa-
11 tion described in paragraph (1) from informa-
12 tion that is obtained by the Secretary in a man-
13 ner not described in that paragraph; and

14 “(B) the information described in para-
15 graph (1) has been and is reviewed only by in-
16 dividuals authorized by the Secretary to provide
17 assistance under subsection (b).

18 “(3) INFORMAL STAFF ADVICE.—An officer,
19 employee, agent, or contractor of the Secretary may
20 advise an eligible entity that information provided to
21 the Secretary for the purpose of obtaining assistance
22 under subsection (b) should also be provided to the
23 Secretary for purposes unrelated to assistance under
24 subsection (b).

25 “(g) EFFECT.—Nothing in this section—

1 “(1) authorizes the Secretary to require any eli-
2 gible entity to adopt any advice, report, rec-
3 ommendation, best practice, finding, model, tool,
4 method, plan, analysis, or assessment made by the
5 Secretary under this section; or

6 “(2) relieves an eligible entity from any obliga-
7 tion to comply with a lawful order or rule of the Sec-
8 retary.

9 “(h) REPORTS FOR ELIGIBLE ENTITIES.—

10 “(1) IN GENERAL.—The Secretary may prepare
11 reports—

12 “(A) for an eligible entity that requests as-
13 sistance under subsection (b); and

14 “(B) for eligible entities generally.

15 “(2) AUTHORITY.—The Secretary shall have
16 sole discretion to prepare a report under paragraph
17 (1).

18 “(3) REQUIREMENT.—A report under para-
19 graph (1) shall not identify an eligible entity without
20 the consent of that eligible entity.

21 “(4) EFFECT.—A report under paragraph
22 (1)—

23 “(A) shall not be binding on the Secretary;
24 and

1 “(B) shall not relieve an eligible entity
2 from any obligation to comply with any applica-
3 ble order or rule of the Secretary.

4 “(i) SAVINGS CLAUSE.—Nothing in this section af-
5 fects in any manner the authority, existing on the day be-
6 fore the date of enactment of the Energy Infrastructure
7 Protection Act of 2020, of—

8 “(1) the Electric Reliability Organization;

9 “(2) a regional entity;

10 “(3) an information sharing and analysis cen-
11 ter; or

12 “(4) a component of any Federal department or
13 agency other than the Department of Energy, in-
14 cluding the authority provided to—

15 “(A) the Cybersecurity and Infrastructure
16 Security Agency; and

17 “(B) the national cybersecurity and com-
18 munications integration center established
19 under section 2209(b) of the Homeland Secu-
20 rity Act of 2002 (6 U.S.C. 659(b)).

21 **“SEC. 234. ACCESS TO CRITICAL ELECTRIC INFRASTRUC-**
22 **TURE INFORMATION.**

23 “(a) ACCESS.—

24 “(1) IN GENERAL.—Except as provided in para-
25 graph (2), and subject to subsections (c) and (e), the

1 Secretary or the Commission, as applicable, shall not
2 disclose or release critical electric infrastructure in-
3 formation to any individual or entity.

4 “(2) EXCEPTIONS.—

5 “(A) IN GENERAL.—Subject to subpara-
6 graph (B), the Secretary or the Commission, as
7 applicable, may disclose critical electric infra-
8 structure information—

9 “(i) to the source of the information;

10 “(ii) to a party or participant in a
11 proceeding before the Secretary or the
12 Commission, if—

13 “(I) the information is relevant
14 to that proceeding; and

15 “(II) each individual seeking ac-
16 cess to the information has entered
17 into a nondisclosure agreement with
18 the source of the information;

19 “(iii) to an individual who is an offi-
20 cer, employee, agent, or contractor of the
21 Secretary or the Commission;

22 “(iv) to an officer, employee, agent, or
23 contractor of—

24 “(I) the Electric Reliability Orga-
25 nization;

1 “(II) a regional entity; or

2 “(III) an information sharing
3 and analysis center;

4 “(v) to an officer, employee, agent, or
5 contractor of the Federal Government;

6 “(vi) to the President, the National
7 Security Council, a member of Congress, a
8 Federal judge or magistrate, or any officer
9 of the United States appointed by the
10 President with the advice and consent of
11 the Senate;

12 “(vii) to an individual who is an offi-
13 cer, employee, agent, or contractor of Con-
14 gress, the Executive Office of the Presi-
15 dent, or a court created under article I or
16 III of the Constitution of the United
17 States;

18 “(viii) to a landowner the property of
19 which has a boundary that is crossed by,
20 or located within the vicinity of, energy in-
21 frastructure, as determined by the Sec-
22 retary or the Commission, as applicable,
23 if—

24 “(I) the landowner provides to
25 the Secretary or the Commission, as

1 applicable, proof of the property inter-
2 est of the landowner; and

3 “(II) the critical electric infra-
4 structure information consists of de-
5 tailed alignment sheets concerning ac-
6 tual or proposed energy infrastructure
7 within the vicinity of the property
8 boundary, as determined by the Sec-
9 retary or the Commission, as applica-
10 ble;

11 “(ix) to an officer, employee, agent, or
12 contractor of an authority of a State, polit-
13 ical subdivision, or Indian Tribe, if each
14 individual seeking access to the informa-
15 tion has entered into a nondisclosure
16 agreement with the Secretary or Commis-
17 sion, as applicable;

18 “(x) to an individual holding a secu-
19 rity clearance at the level of top secret or
20 higher; or

21 “(xi) to any other individual, if—

22 “(I) the source of the informa-
23 tion has given express consent to the
24 disclosure of the information to the
25 individual; and

1 “(II) a nondisclosure agreement
2 between the source of the information
3 and each individual seeking access to
4 the information has been approved
5 by—

6 “(aa) an administrative law
7 judge of, or assigned to, the De-
8 partment of Energy; or

9 “(bb) an administrative law
10 judge of, or assigned to, the
11 Commission.

12 “(B) DISCLOSURE FOR ACADEMIC, SCI-
13 ENTIFIC, OR RESEARCH PURPOSES.—The Sec-
14 retary or the Commission, as applicable, may
15 disclose critical electric infrastructure informa-
16 tion to an individual for academic, scientific, or
17 research purposes, including academic, sci-
18 entific, or research work that is conducted by
19 the Department of Energy at any laboratory of
20 the Department of Energy, if—

21 “(i) the individual holds a security
22 clearance at the level of top secret or high-
23 er; or

24 “(ii)(I) the source of the information
25 expressly consents to the disclosure of the

1 information to the individual for the aca-
2 demic, scientific, or research work; and

3 “(II) a nondisclosure agreement be-
4 tween the source of the information and
5 each individual seeking access to the infor-
6 mation has been approved by—

7 “(aa) an administrative law judge
8 of, or assigned to, the Department of
9 Energy; or

10 “(bb) an administrative law
11 judge of, or assigned to, the Commis-
12 sion.

13 “(C) AUTHORITY TO RETAIN INFORMA-
14 TION.—

15 “(i) IN GENERAL.—The Secretary or
16 the Commission, as applicable—

17 “(I) shall have no obligation to
18 disclose critical electric infrastructure
19 information to any individual or enti-
20 ty; and

21 “(II) may withhold disclosure of
22 critical electric infrastructure informa-
23 tion at any time, for any reason, at
24 the sole discretion of the Secretary or
25 the Commission, as applicable.

1 “(ii) REQUIREMENT.—

2 “(I) IN GENERAL.—If the Sec-
3 retary or the Commission, as applica-
4 ble, determines that the disclosure of
5 critical electric infrastructure informa-
6 tion to an individual or entity may
7 jeopardize the common defense and
8 security of the United States, the in-
9 formation shall not be disclosed to
10 that individual or entity.

11 “(II) COORDINATION.—The Sec-
12 retary shall share appropriate infor-
13 mation and coordinate resources with
14 the Commission to ensure compliance
15 with the requirement described in sub-
16 clause (I).

17 “(b) NONDISCLOSURE AGREEMENTS.—

18 “(1) IN GENERAL.—Each nondisclosure agree-
19 ment entered into or approved under this section
20 shall—

21 “(A) reflect the individual circumstances
22 concerning the parties to the agreement;

23 “(B) permit the auditing of compliance
24 with the agreement; and

1 “(C) be enforceable in law and equity by
2 any district court of the United States.

3 “(2) MODIFICATION OF STANDARDIZED FORMS;
4 DISPUTE RESOLUTION.—

5 “(A) STANDARDIZED FORMS.—

6 “(i) USE OF STANDARDIZED FORMS
7 PERMITTED.—Potential parties to a non-
8 disclosure agreement may use a standard-
9 ized form of agreement if that form is ap-
10 propriate for the particular circumstances.

11 “(ii) MODIFICATION BY THE PAR-
12 TIES.—Notwithstanding any policy or rule
13 of the Secretary or the Commission relat-
14 ing to standardized forms of nondisclosure
15 agreements, the express terms of a non-
16 disclosure agreement shall be subject to
17 appropriate revision by the parties to the
18 agreement.

19 “(B) DISPUTE RESOLUTION.—

20 “(i) IN GENERAL.—Any dispute re-
21 garding a nondisclosure agreement, includ-
22 ing any dispute regarding the terms of a
23 proposed nondisclosure agreement or com-
24 pliance with an existing nondisclosure
25 agreement, shall be resolved by—

1 “(I) a district court of the United
2 States;

3 “(II) an administrative law judge
4 of, or assigned to, the Department of
5 Energy; or

6 “(III) an administrative law
7 judge of, or assigned to, the Commis-
8 sion.

9 “(ii) JUDICIAL REVIEW.—

10 “(I) IN GENERAL.—Any party to
11 a proceeding to resolve a dispute de-
12 scribed in clause (i) who is aggrieved
13 by an order issued by an administra-
14 tive law judge under that clause may
15 obtain review of that order in a dis-
16 trict court of the United States by fil-
17 ing, in accordance with subclause (II),
18 a petition for review in—

19 “(aa) the United States Dis-
20 trict Court for the District of Co-
21 lumbia; or

22 “(bb) the district court of
23 the United States for the judicial
24 district in which any party to the
25 nondisclosure agreement resides.

1 “(II) PETITION FOR REVIEW.—A
2 petition for review of any order sub-
3 ject to review under subclause (I)
4 shall—

5 “(aa) be filed not later than
6 30 days after the date on which
7 the administrative law judge
8 issues the order; and

9 “(bb) request that the order
10 be modified or set aside in whole
11 or in part.

12 “(3) OPTION FOR FEDERAL FORM OF NON-
13 DISCLOSURE AGREEMENT.—The Secretary or the
14 Commission, as applicable, may require an individual
15 seeking access to critical electric infrastructure in-
16 formation from the Secretary or the Commission to
17 enter into a nondisclosure agreement with the Sec-
18 retary or the Commission, as applicable, in addition
19 to any nondisclosure agreement entered into by that
20 individual with the source of the information.

21 “(c) DISCLOSURE OF INDICATORS, METHODS, AND
22 TOOLS.—Notwithstanding subsection (a)(1), the Sec-
23 retary or the Commission, as applicable, may disclose indi-
24 cators, methods, and tools that have been used in pene-
25 trating or defending energy infrastructure if—

1 “(1) the source of the information consents to
2 the release of that information; and

3 “(2) the Secretary or the Commission, as appli-
4 cable, removes all information that would enable an
5 individual to identify the source of the information.

6 “(d) PROTECTION OF INFORMATION.—Any critical
7 electric infrastructure information that is disclosed by the
8 Secretary or the Commission under subsection (a)(2), or
9 that is required to be disclosed under a rule issued pursu-
10 ant to subsection (e)(2)—

11 “(1) shall be protected from disclosure by the
12 recipient;

13 “(2) shall be exempt from disclosure under sec-
14 tion 552(b)(3) of title 5, United States Code; and

15 “(3) shall not be made available by any Fed-
16 eral, State, political subdivision, or Tribal authority
17 under any applicable law requiring public disclosure
18 of information or records.

19 “(e) SAVINGS CLAUSES.—

20 “(1) INFORMATION CONTROLLED BY OWNERS
21 AND OPERATORS OF ENERGY INFRASTRUCTURE.—

22 Nothing in this section limits the ability of an owner
23 or operator of energy infrastructure to handle the
24 information controlled by that owner or operator, in-
25 cluding information that could be designated as crit-

1 ical electric infrastructure information, in whatever
2 manner the owner or operator believes will best serve
3 the interests of the owner or operator, including—

4 “(A) by exchanging that information with
5 other owners or operators of energy infrastruc-
6 ture; and

7 “(B) by providing that information to offi-
8 cers, employees, agents, and contractors of the
9 owner or operator.

10 “(2) DISCLOSURE TO CERTAIN INDIVIDUALS
11 AND ENTITIES.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraph (C), nothing in this section limits
14 the ability of the Commission to issue or en-
15 force a rule of general applicability requiring a
16 public utility to disclose certain critical electric
17 infrastructure information to an eligible recipi-
18 ent described in subparagraph (B) that re-
19 quests the information.

20 “(B) ELIGIBLE RECIPIENT DESCRIBED.—
21 An eligible recipient referred to in subpara-
22 graph (A) is—

23 “(i) an electric utility;

24 “(ii) a potential or existing inter-
25 connection customer of the public utility;

1 “(iii) a potential or existing trans-
2 mission customer of the public utility;

3 “(iv) a State regulatory authority; or

4 “(v) a member of the public.

5 “(C) REQUIREMENTS.—Any rule described
6 in subparagraph (A) issued or enforced by the
7 Commission shall—

8 “(i) require that each request for crit-
9 ical electric infrastructure information be
10 disclosed to the source of the information;

11 “(ii) require disclosure only if each in-
12 dividual seeking access to critical electric
13 infrastructure information has entered into
14 a nondisclosure agreement with the source
15 of the information;

16 “(iii) provide that the source of the
17 information shall have no liability for dam-
18 ages associated with misuse of the critical
19 electric infrastructure information that re-
20 sults in an attack on energy infrastructure;
21 and

22 “(iv) with respect to a request sub-
23 mitted by a member of the public, require
24 disclosure only after each individual seek-
25 ing access to critical electric infrastructure

1 information has entered into a nondisclo-
2 sure agreement with the source of the in-
3 formation that has been approved by—

4 “(I) an administrative law judge
5 of, or assigned to, the Department of
6 Energy; or

7 “(II) an administrative law judge
8 of, or assigned to, the Commission.

9 **“SEC. 235. DESIGNATING INFORMATION HELD BY OTHER**
10 **GOVERNMENTAL AUTHORITIES.**

11 “(a) DEFINITION OF ELIGIBLE ENTITY.—In this sec-
12 tion:

13 “(1) IN GENERAL.—The term ‘eligible entity’
14 means—

15 “(A) a Federal, State, political subdivision,
16 or Tribal authority; and

17 “(B) a utility owned or operated by 1 or
18 more of the authorities described in subpara-
19 graph (A), including a joint action agency or
20 similar entity.

21 “(2) EXCLUSIONS.—The term ‘eligible entity’
22 does not include—

23 “(A) the Secretary; or

24 “(B) the Commission.

1 “(b) REQUEST FOR DESIGNATION.—An eligible enti-
2 ty may submit to the Secretary or the Commission a re-
3 quest to designate information that is in the possession
4 and control of the eligible entity as critical electric infra-
5 structure information by providing to the Secretary or the
6 Commission, as applicable, a description of—

7 “(1) the nature of the information for which
8 the designation is requested; and

9 “(2) the basis for the designation.

10 “(c) TIMING; EFFECT; FUTURE INFORMATION.—

11 “(1) TIMING.—

12 “(A) SUBMISSION.—A request under sub-
13 section (b) may be submitted to the Secretary
14 or the Commission at any time, including after
15 disclosure of the relevant information has been
16 requested under any applicable law requiring
17 public disclosure of information or records.

18 “(B) TREATMENT OF SUBMITTED INFOR-
19 MATION.—On receipt of a request under sub-
20 section (b), the Secretary or the Commission, as
21 applicable, shall treat the information that is
22 the subject of the request as critical electric in-
23 frastructure information until the earlier of—

24 “(i) the date on which the Secretary
25 or the Commission, as applicable, des-

1 ignates the information as critical electric
2 infrastructure information; and

3 “(ii) the date that is 21 days after the
4 date on which the Secretary or Commis-
5 sion, as applicable, provides written notice
6 to the eligible entity that submitted the re-
7 quest that the request is denied.

8 “(2) EFFECT.—

9 “(A) EFFECT OF REQUEST FOR PUBLIC
10 DISCLOSURE.—The submission of a request to
11 the Secretary or the Commission under sub-
12 section (b) after a request for public disclosure
13 of the relevant information has been made shall
14 not prejudice any decision with respect to
15 whether the information should be designated
16 as critical electric infrastructure information.

17 “(B) EFFECT OF FAILURE TO TIMELY ACT
18 ON SUBMISSION.—If the Secretary or the Com-
19 mission, as applicable, fails to grant or deny a
20 request submitted under subsection (b) by the
21 date that is 1 year after the date on which the
22 request is submitted, the information that is the
23 subject of the request shall be designated as
24 critical electric infrastructure information for a

1 period of 10 years beginning on the date on
2 which the request is submitted.

3 “(3) FUTURE INFORMATION.—A submission to
4 the Secretary or the Commission under subsection
5 (b) may concern—

6 “(A) existing information; or

7 “(B) information that is expected to be
8 created after the date of the submission, includ-
9 ing any information that is expected to be cre-
10 ated on a periodic or ongoing basis.

11 “(d) RESPONSIBILITY FOR A DEFENSE.—An eligible
12 entity for which the Secretary or the Commission, as ap-
13 plicable, has granted a request to designate certain infor-
14 mation as critical electric infrastructure information under
15 this section, or for which information has been designated
16 as critical electric infrastructure information for a period
17 of 10 years under subsection (c)(2)(B)—

18 “(1) shall not request that the Secretary or the
19 Commission provide a defense against any claim for
20 disclosure of the designated information; and

21 “(2) shall be entirely responsible for a defense,
22 including by paying for a defense, against any claim
23 for disclosure of the designated information under—

24 “(A) section 552 of title 5, United States
25 Code; or

1 “(B) any other applicable law (including
2 any Federal, State, political subdivision, or
3 Tribal law) requiring public disclosure of infor-
4 mation or records.

5 “(e) DISCLOSURE AND RELEASE OF INFORMA-
6 TION.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2)—

9 “(A) any information that is in the posses-
10 sion and control of an eligible entity shall not
11 be subject to section 234(d); and

12 “(B) an eligible entity may establish stand-
13 ards for the disclosure or release of information
14 in the possession and control of the eligible en-
15 tity.

16 “(2) PROTECTION OF CERTAIN INFORMA-
17 TION.—Any critical electric infrastructure informa-
18 tion that is disclosed to an eligible entity by the Sec-
19 retary or the Commission under section 234(a)(2) or
20 by a public utility under a rule issued pursuant to
21 section 234(e)(2) shall be subject to section 234(d).

22 **“SEC. 236. WARTIME CLEARANCE.**

23 “(a) IN GENERAL.—Whenever Congress declares
24 that a state of war exists, or in the event of a national
25 disaster due to enemy attack, the Secretary and the Com-

1 mission are authorized, during the state of war or period
2 of national disaster due to enemy attack, to confer with
3 individuals and grant individuals access to critical electric
4 infrastructure information pending further investigation
5 of those individuals.

6 “(b) LIMITATION.—The Secretary and the Commis-
7 sion may confer with individuals and grant individuals ac-
8 cess to critical electric infrastructure information under
9 subsection (a) only to the extent that, and for so long as,
10 the Secretary or the Commission finds that such action
11 is required to prevent impairment of the activities of the
12 Secretary or the Commission that are in furtherance of
13 the common defense and security.

14 **“SEC. 237. ENFORCEMENT AND SANCTIONS.**

15 “(a) ENFORCEMENT.—Any individual who fails to re-
16 turn critical electric infrastructure information by the date
17 that is 90 days after the date on which the individual is
18 served with a demand by the Secretary or the Commission
19 to return that critical electric infrastructure information
20 shall be subject to enforcement under sections 314, 316,
21 and 316A.

22 “(b) SANCTIONS.—

23 “(1) SANCTIONS BY THE COMMISSION.—The
24 Commission shall ensure that appropriate sanctions
25 are in place for—

1 “(A) any Commissioner or former Commis-
2 sioner who knowingly and willfully discloses
3 critical electric infrastructure information in a
4 manner that is not authorized under this sub-
5 part, with sanctions to include, at a minimum—

6 “(i) the potential loss of access to crit-
7 ical electric infrastructure information; and

8 “(ii) the potential public issuance of
9 letters of reprimand; and

10 “(B) any officer, employee, agent, or con-
11 tractor of the Commission who knowingly and
12 willfully discloses critical electric infrastructure
13 information in a manner that is not authorized
14 under this subpart.

15 “(2) SANCTIONS BY THE SECRETARY.—The
16 Secretary shall ensure that appropriate sanctions are
17 in place for any officer, employee, agent, or con-
18 tractor of the Secretary who knowingly and willfully
19 discloses critical electric infrastructure information
20 in a manner that is not authorized under this sub-
21 part.”.

22 (e) CONFORMING AMENDMENTS.—

23 (1) Section 201 of the Federal Power Act (16
24 U.S.C. 824) is amended—

25 (A) in subsection (b)(2)—

1 (i) by striking “215A,” each place it
2 appears;

3 (ii) in the first sentence, by inserting
4 “and subpart B” after “and 222”; and

5 (iii) in the second sentence, by strik-
6 ing “222,” and inserting “222 or subpart
7 B”; and

8 (B) in subsection (e)—

9 (i) by striking “215A,”; and

10 (ii) by inserting “or subpart B” after
11 “or 222”.

12 (2) Section 6003(c)(1)(A) of the FAST Act (6
13 U.S.C. 121 note; Public Law 114–94) is amended by
14 striking “section 215A” and inserting “section
15 230”.

○