

110TH CONGRESS
2D SESSION

H. R. 6013

To provide for disaster assistance for power transmission and distribution facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 8, 2008

Mr. MELANCON (for himself, Mr. McCRERY, Mr. ALEXANDER, Mr. BOUSTANY, and Mr. JEFFERSON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To provide for disaster assistance for power transmission and distribution 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 “Ratepayer Recovery
5 Act of 2007”.

6 **SEC. 2. DISASTER ASSISTANCE FOR POWER TRANSMISSION**
7 **AND DISTRIBUTION FACILITIES.**

8 (a) DEFINITIONS.—Section 102 of the Robert T.
9 Stafford Disaster Relief and Emergency Assistance Act

1 (42 U.S.C. 5122) is amended by adding at the end the
2 following:

3 “(11) PRIVATE OR INVESTOR-OWNED POWER
4 FACILITY.—The term ‘private or investor-owned
5 power facility’—

6 “(A) means a privately-owned or investor-
7 owned transmission or distribution facility that
8 provides electric or natural gas service to retail
9 customers under State or local jurisdiction; and

10 “(B) includes leased facilities.”.

11 (b) CONDITIONS FOR CONTRIBUTIONS.—Section
12 406(a) of the Robert T. Stafford Disaster Relief and
13 Emergency Assistance Act (42 U.S.C. 5172(a)) is amend-
14 ed—

15 (1) in paragraph (1)—

16 (A) in subparagraph (A), by striking
17 “and” at the end;

18 (B) in subparagraph (B), by striking the
19 period and inserting “; and”; and

20 (C) by adding at the end the following:

21 “(C) subject to paragraph (4), to a person
22 that owns a private or investor-owned power fa-
23 cility damaged or destroyed by a major disaster
24 for the repair, restoration, reconstruction, or re-

1 placement of the facility and for associated ex-
2 penses incurred by the person.”;

3 (2) by redesignating paragraph (4) as para-
4 graph (5); and

5 (3) by inserting after paragraph (3) the fol-
6 lowing:

7 “(4) CONDITIONS FOR ASSISTANCE TO PRIVATE
8 OR INVESTOR-OWNED POWER FACILITIES.—

9 “(A) DEFINITION.—In this paragraph, the
10 term ‘previous major disaster’ means a major
11 disaster—

12 “(i) occurring before the disaster for
13 which Federal assistance is sought under
14 this subsection; and

15 “(ii) the declaration of which was not
16 more than 10 years before the date of the
17 declaration of the major disaster for which
18 Federal assistance is sought under this
19 subsection.

20 “(B) CONDITIONED ON PREVIOUS
21 EVENT.—The President may make contribu-
22 tions to the owner of a private or investor-
23 owned power facility under paragraph (1)(C)
24 for repair, restoration and replacement of any
25 facility damaged or destroyed as a result of the

1 major disaster for which it requests Federal as-
2 sistance, only if—

3 “(i) the cost of repairing, restoring, or
4 replacing the private or investor-owned
5 power facilities damaged or destroyed by
6 the previous major disaster exceeded
7 \$2,500 for each retail customer receiving
8 electrical or natural gas service from the
9 owner on the day before the date of the
10 previous disaster;

11 “(ii) the total costs of repair, restora-
12 tion, or replacement of all private or inves-
13 tor-owned power facilities owned by such
14 person and associated expenses incurred by
15 the person as a result of the previous
16 major disaster exceeded \$500,000,000; and

17 “(iii) 20 percent or more of the popu-
18 lation, as estimated by the Bureau of the
19 Census, of each geographic area of each
20 local government in which the private or
21 investor-owned power facility is located,
22 was below the official Federal poverty level,
23 as determined by the Bureau of Census,
24 during the year before the previous major
25 disaster.

1 “(C) APPLICATION FOR FUNDS.—A person
2 that owns a private or investor-owned power fa-
3 cility that meets the requirements under sub-
4 paragraph (B) may apply for Federal assistance
5 on or before the earlier of—

6 “(i) the 30th day after declaration of
7 a major disaster; or

8 “(ii) the date upon which the owner of
9 the private or investor-owned power facility
10 has incurred costs of \$10,000,000 or two-
11 thirds of its average annual net income for
12 the previous three fiscal years, whichever is
13 higher, towards the total costs of repair,
14 restoration, or replacement of all private or
15 investor-owned power facilities damaged or
16 destroyed as a result of the major disaster
17 for which it requests Federal assistance.

18 “(D) LIMIT ON FEDERAL ASSISTANCE FOR
19 DISASTER RELIEF.—Federal assistance under
20 this section to the owner of a private or inves-
21 tor-owned power facility shall only apply to the
22 costs of repair, restoration, reconstruction or
23 replacement of the facility and for associated
24 expenses incurred by the person that exceed
25 \$10,000,000 or two-thirds of its average annual

1 net income for the previous three fiscal years,
2 whichever is higher.

3 “(E) AGGREGATION FOR PURPOSES OF DE-
4 TERMINING COSTS.—For purposes of deter-
5 mining the costs of a previous major disaster
6 under this paragraph, the owner of the private
7 or investor-owned power facility may aggregate
8 the costs of all previous major disasters during
9 any 12-month period.

10 “(F) APPROVAL OR DISAPPROVAL OF AP-
11 PPLICATIONS.—The President shall approve or
12 disapprove an application for assistance sub-
13 mitted by a person under this paragraph for a
14 private or investor-owned power facility not
15 later than 30 days after the date of receipt of
16 the application.”.

17 (c) FEDERAL SHARE.—Section 406(b)(2) of the Rob-
18 ert T. Stafford Disaster Relief and Emergency Assistance
19 Act (42 U.S.C. 5172(b)(2)) is amended by striking “public
20 facility or private nonprofit facility” and inserting “public
21 facility, private nonprofit facility, or private or investor-
22 owned power facility”.

23 (d) LARGE IN-LIEU CONTRIBUTIONS.—Section
24 406(c) of the Robert T. Stafford Disaster Relief and

1 Emergency Assistance Act (42 U.S.C. 5172(c)) is amend-
2 ed by adding at the end the following:

3 “(3) FOR PRIVATE OR INVESTOR-OWNED
4 POWER FACILITIES.—

5 “(A) IN GENERAL.—In any case in which
6 a person that owns a private or investor-owned
7 power facility determines that the public welfare
8 would not best be served by repairing, restor-
9 ing, reconstructing, or replacing the facility, the
10 person may elect to receive, in lieu of a con-
11 tribution under subsection (a)(1)(C), a con-
12 tribution in an amount equal to 75 percent of
13 the Federal share of the Federal estimate of the
14 cost of repairing, restoring, reconstructing, or
15 replacing the facility and of management ex-
16 penses, under the conditions described in sub-
17 section (a)(4).

18 “(B) USE OF FUNDS.—Funds contributed
19 to a person under this paragraph may be used
20 only within the area affected as a result of the
21 major disaster for which it requests Federal as-
22 sistance to—

23 “(i) repair, restore, or expand other
24 private or investor-owned power facilities
25 owned by the person;

1 “(ii) construct a new private or inves-
2 tor-owned power facility owned by the per-
3 son; or

4 “(iii) fund hazard mitigation meas-
5 ures that the person determines to be nec-
6 essary to meet a need for the services and
7 functions of the person in the area affected
8 by the major disaster.”.

9 (e) ELIGIBLE COST.—Section 406(e)(1)(A) of the
10 Robert T. Stafford Disaster Relief and Emergency Assist-
11 ance Act (42 U.S.C. 5172(e)(1)(A)) is amended by strik-
12 ing “public facility or private nonprofit facility” and in-
13 serting “public facility, private nonprofit facility, or pri-
14 vate or investor-owned power facility”.

15 **SEC. 3. REGULATIONS.**

16 Not later than 180 days after the date of enactment
17 of this Act, the Secretary of Homeland Security shall pro-
18 mulgate regulations necessary to implement this Act and
19 the amendments made by this Act.

20 **SEC. 4. EFFECTIVE DATE.**

21 (a) IN GENERAL.—Except as provided under sub-
22 section (b), this Act and the amendments made by this
23 Act shall take effect upon the date of enactment of this
24 Act.

1 (b) REGULATIONS.—Section 3 shall take effect on the
2 date of enactment of this Act.

○