

111TH CONGRESS  
1ST SESSION

# S. 672

To amend the Natural Gas Act, the Natural Gas Policy Act of 1978, and the Federal Power Act to modify provisions relating to enforcement and judicial review and to modify the procedures for proposing changes in natural gas rates.

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IN THE SENATE OF THE UNITED STATES

MARCH 24, 2009

Ms. CANTWELL introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Natural Gas Act, the Natural Gas Policy Act of 1978, and the Federal Power Act to modify provisions relating to enforcement and judicial review and to modify the procedures for proposing changes in natural gas rates.

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 “Natural Gas and Elec-  
5       tricity Review and Enforcement Act”.

1 **SEC. 2. NATURAL GAS ACT.**

2 (a) IN GENERAL.—Section 20 of the Natural Gas Act  
 3 (15 U.S.C. 717s) is amended by adding at the end the  
 4 following:

5 “(e) CEASE-AND-DESIST PROCEEDINGS.—

6 “(1) IN GENERAL.—If the Commission deter-  
 7 mines that any entity may be violating, may have  
 8 violated, or may be about to violate any provision of  
 9 this Act, or any regulation promulgated by, or any  
 10 restriction, condition, or order made or imposed by,  
 11 the Commission under this Act, and if the Commis-  
 12 sion finds that the alleged violation or threatened  
 13 violation, or the continuation of the violation, is like-  
 14 ly to result in significant harm to natural gas con-  
 15 sumers or significant harm to the public interest, the  
 16 Commission may issue a temporary order requiring  
 17 the respondent—

18 “(A) to cease and desist from the violation  
 19 or threatened violation;

20 “(B) to take such action as is necessary to  
 21 prevent the violation or threatened violation;  
 22 and

23 “(C) to prevent, as the Commission deter-  
 24 mines to be appropriate—

25 “(i) significant harm to natural gas  
 26 consumers;

1                   “(ii) significant harm to the public in-  
2                   terest; and

3                   “(iii) frustration of the ability of the  
4                   Commission to conduct the proceedings or  
5                   to redress the violation at the conclusion of  
6                   the proceedings.

7                   “(2) TIMING OF ENTRY.—An order issued  
8                   under this subsection shall be entered only after no-  
9                   tice and opportunity for a hearing, unless the Com-  
10                  mission determines that notice and hearing prior to  
11                  entry would be impracticable or contrary to the pub-  
12                  lic interest.

13                  “(3) EFFECTIVE DATE.—A temporary order  
14                  issued under this subsection shall—

15                         “(A) become effective upon service upon  
16                         the respondent; and

17                         “(B) unless set aside, limited, or sus-  
18                         pended by the Commission or a court of com-  
19                         petent jurisdiction, remain effective and en-  
20                         forceable pending the completion of the pro-  
21                         ceedings.

22                  “(f) PROCEEDINGS REGARDING DISSIPATION OR  
23                  CONVERSION OF ASSETS.—

24                         “(1) IN GENERAL.—In a proceeding involving  
25                         an alleged violation of a regulation or order promul-

1 gated or issued by the Commission in accordance  
2 with section 4A, if the Commission determines that  
3 the alleged violation or related circumstances are  
4 likely to result in significant dissipation or conver-  
5 sion of assets, the Commission may issue a tem-  
6 porary order requiring the respondent to take such  
7 action as is necessary to prevent the dissipation or  
8 conversion of assets.

9 “(2) TIMING OF ENTRY.—An order issued  
10 under this subsection shall be entered only after no-  
11 tice and opportunity for a hearing, unless the Com-  
12 mission determines that notice and hearing prior to  
13 entry would be impracticable or contrary to the pub-  
14 lic interest.

15 “(3) EFFECTIVE DATE.—A temporary order  
16 issued under this subsection shall—

17 “(A) become effective upon service upon  
18 the respondent; and

19 “(B) unless set aside, limited, or sus-  
20 pended by the Commission or a court of com-  
21 petent jurisdiction, remain effective and en-  
22 forceable pending the completion of the pro-  
23 ceedings.

24 “(g) REVIEW OF TEMPORARY ORDERS.—

1           “(1) APPLICATION FOR REVIEW.—At any time  
2 after a respondent has been served with a temporary  
3 cease-and-desist order pursuant to subsection (e) or  
4 order regarding the dissipation or conversion of as-  
5 sets pursuant to subsection (f), the respondent may  
6 apply to the Commission to have the order set aside,  
7 limited, or suspended.

8           “(2) NO PRIOR HEARING.—If a respondent has  
9 been served with a temporary order entered without  
10 a prior hearing of the Commission—

11                 “(A) the respondent may, not later than  
12 10 days after the date on which the order was  
13 served, request a hearing on the application;  
14 and

15                 “(B) the Commission shall hold a hearing  
16 and render a decision on the application at the  
17 earliest practicable time.

18           “(3) JUDICIAL REVIEW.—

19                 “(A) IN GENERAL.—An entity shall not be  
20 required to submit a request for rehearing of a  
21 temporary order prior to seeking judicial review  
22 in accordance with section 19(a).

23                 “(B) TIMING OF REVIEW.—Not later than  
24 10 days after the date on which a respondent  
25 was served with a temporary cease-and-desist

1 order entered with a prior hearing of the Com-  
2 mission, or 10 days after the date on which the  
3 Commission renders a decision on an applica-  
4 tion and hearing under paragraph (1) with re-  
5 spect to any temporary order entered without a  
6 prior hearing of the Commission—

7 “(i) a respondent may obtain a review  
8 of the order in a United States circuit  
9 court having jurisdiction over the circuit in  
10 which the respondent resides or has a prin-  
11 cipal place of business, or in the United  
12 States Court of Appeals for the District of  
13 Columbia Circuit, for an order setting  
14 aside, limiting, or suspending the effective-  
15 ness or enforcement of the order; and

16 “(ii) the court shall have jurisdiction  
17 to enter such an order.

18 “(C) NO PRIOR HEARING.—A respondent  
19 served with a temporary order entered without  
20 a prior hearing of the Commission may not  
21 apply to the applicable court described in sub-  
22 paragraph (B) except after a hearing and deci-  
23 sion by the Commission on the application of  
24 the respondent under paragraphs (1) and (2).

1           “(4) PROCEDURES.—Section 19(b) shall apply  
2           to—

3                   “(A) an application for review of an order  
4                   under paragraph (1); and

5                   “(B) an order subject to review under  
6                   paragraph (3).

7           “(5) NO AUTOMATIC STAY OF TEMPORARY  
8           ORDER.—The commencement of proceedings under  
9           paragraph (3) shall not, unless specifically ordered  
10          by the court, operate as a stay of the order of the  
11          Commission.

12          “(h) REGULATIONS AND ORDERS.—The Commission  
13          may promulgate such regulations and issue such orders  
14          as the Commission determines to be necessary to carry  
15          out this section.”.

16          (b) PROCEDURE FOR PROPOSING CHANGES IN NAT-  
17          URAL GAS RATES.—Section 5(a) of the Natural Gas Act  
18          (15 U.S.C. 717d(a)) is amended—

19                  (1) in the first sentence—

20                          (A) by striking “Whenever” and inserting  
21                          the following:

22                                  “(1) IN GENERAL.—If”;

23                          (B) by striking “had” and inserting  
24                          “held”;

1 (C) by striking the colon and inserting a  
2 period; and

3 (D) by striking “*Provided, however, That*  
4 the” and inserting the following:

5 “(2) LIMITATION.—Notwithstanding paragraph  
6 (1), the”; and

7 (2) by adding at the end the following:

8 “(3) PROCEDURES.—

9 “(A) COMPLAINTS; MOTIONS.—Any com-  
10 plaint or motion of the Commission to initiate  
11 a proceeding under this subsection shall iden-  
12 tify—

13 “(i) any proposed changes to the rate,  
14 charge, classification, rule, regulation,  
15 practice, or contract; and

16 “(ii) the reasons for the proposed  
17 changes.

18 “(B) HEARINGS.—If, after review of a mo-  
19 tion or complaint and answer under this sub-  
20 section, the Commission decides to hold a hear-  
21 ing, the Commission shall—

22 “(i) by order, establish the time and  
23 place of the hearing; and

24 “(ii) specify the issues to be adju-  
25 dicated in the hearing.

1 “(4) REFUND EFFECTIVE DATE.—

2 “(A) IN GENERAL.—In accordance with  
3 subparagraphs (B) and (C), the Commission  
4 shall establish a refund effective date for any  
5 proceeding initiated under this subsection.

6 “(B) COMPLAINTS.—In the case of a pro-  
7 ceeding initiated by a complaint, the refund ef-  
8 fective date shall be—

9 “(i) not earlier than the date on which  
10 the complaint is submitted to the Commis-  
11 sion; and

12 “(ii) not later than 150 days after the  
13 date on which the complaint was submitted  
14 to the Commission.

15 “(C) COMMISSION MOTION.—In the case of  
16 a proceeding initiated on motion of the Com-  
17 mission, the refund effective date shall be—

18 “(i) not earlier than the date on which  
19 the Commission publishes notice of the in-  
20 tention of the Commission to initiate the  
21 proceeding; and

22 “(ii) not later than 150 days after the  
23 date on which the notice under clause (i)  
24 is published.

1           “(5) PREFERENTIAL PROCEEDINGS.—On initi-  
2           ation of a proceeding under this subsection, the  
3           Commission shall—

4                   “(A) give the proceeding the same pref-  
5                   erence provided under section 4(e); and

6                   “(B) act on the complaint or motion as  
7                   soon as practicable after the complaint or mo-  
8                   tion is initiated.

9           “(6) FAILURE TO ISSUE DECISION.—If no final  
10           decision is issued by the date that is 180 days after  
11           the date on which a proceeding is initiated under  
12           this subsection, the Commission shall state in writ-  
13           ing—

14                   “(A) the reasons why the Commission has  
15                   failed to issue a decision; and

16                   “(B) the best estimate of the Commission  
17                   for the date by which the Commission expects  
18                   to issue a decision.

19           “(7) BURDEN OF PROOF.—In any hearing  
20           under this subsection, the burden of proof to show  
21           that any rate, charge, classification, rule, regulation,  
22           practice, or contract is unjust, unreasonable, unduly  
23           discriminatory, or preferential shall be on—

24                   “(A) if the proceeding is initiated by the  
25                   Commission, the Commission; or

1           “(B) if the proceeding is initiated by a  
2 complaint, the complainant.

3           “(8) ISSUANCE OF REFUNDS.—

4           “(A) IN GENERAL.—At the conclusion of  
5 any hearing under this section, the Commission  
6 may order, for the period beginning on the re-  
7 fund effective date and ending on a date 15  
8 months after the refund effective date, refunds  
9 of any amounts paid in excess of the amounts  
10 that would have been paid under the just and  
11 reasonable rate, charge, classification, rule, reg-  
12 ulation, practice, or contract that the Commis-  
13 sion orders that would be in effect after the  
14 hearing.

15           “(B) EXCEPTION.—Notwithstanding sub-  
16 paragraph (A), the Commission may order re-  
17 funds of any or all amounts paid for the period  
18 beginning on the refund effective date and end-  
19 ing on the date on which the hearing con-  
20 cludes—

21                   “(i) if the proceeding is not concluded  
22 by the date that is 15 months after the re-  
23 fund effective date; and

24                   “(ii) if the Commission determines at  
25 the conclusion of the proceeding that the

1 proceeding was not resolved within the 15-  
2 month period primarily because of dilatory  
3 behavior by the natural gas company.

4 “(C) INTEREST.—Refunds under this sub-  
5 section shall be issued in an amount determined  
6 by the proceeding, plus interest, to the persons  
7 that paid the rates or charges.”.

8 **SEC. 3. NATURAL GAS POLICY ACT OF 1978.**

9 Section 504 of the Natural Gas Policy Act of 1978  
10 (15 U.S.C. 3414) is amended by adding at the end the  
11 following:

12 “(d) CEASE-AND-DESIST PROCEEDINGS.—

13 “(1) IN GENERAL.—If the Commission deter-  
14 mines that any entity may be violating, may have  
15 violated, or may be about to violate any provision of  
16 this Act, or any regulation promulgated by, or any  
17 restriction, condition, or order made or imposed by,  
18 the Commission under this Act, and if the Commis-  
19 sion finds that the alleged violation or threatened  
20 violation, or the continuation of the violation, is like-  
21 ly to result in significant harm to natural gas con-  
22 sumers or significant harm to the public interest, the  
23 Commission may issue a temporary order requiring  
24 the respondent—

1           “(A) to cease and desist from the violation  
2 or threatened violation;

3           “(B) to take such action as is necessary to  
4 prevent the violation or threatened violation;  
5 and

6           “(C) to prevent, as the Commission deter-  
7 mines to be appropriate—

8                 “(i) significant harm to natural gas  
9 consumers;

10                “(ii) significant harm to the public in-  
11 terest; and

12                “(iii) frustration of the ability of the  
13 Commission to conduct the proceedings or  
14 to redress the violation at the conclusion of  
15 the proceedings.

16           “(2) TIMING OF ENTRY.—An order issued  
17 under this subsection shall be entered only after no-  
18 tice and opportunity for a hearing, unless the Com-  
19 mission determines that notice and hearing prior to  
20 entry would be impracticable or contrary to the pub-  
21 lic interest.

22           “(3) EFFECTIVE DATE.—A temporary order  
23 issued under this subsection shall—

24                 “(A) become effective upon service upon  
25 the respondent; and

1           “(B) unless set aside, limited, or sus-  
2           pended by the Commission or a court of com-  
3           petent jurisdiction, remain effective and en-  
4           forceable pending the completion of the pro-  
5           ceedings.

6           “(e) PROCEEDINGS REGARDING DISSIPATION OR  
7           CONVERSION OF ASSETS.—

8           “(1) IN GENERAL.—In a proceeding involving  
9           an alleged violation of a regulation or order promul-  
10          gated or issued by the Commission in accordance  
11          with section 4A of the Natural Gas Act (15 U.S.C.  
12          717c), if the Commission determines that the alleged  
13          violation or related circumstances are likely to result  
14          in significant dissipation or conversion of assets, the  
15          Commission may issue a temporary order requiring  
16          the respondent to take such action as is necessary  
17          to prevent the dissipation or conversion of assets.

18          “(2) TIMING OF ENTRY.—An order issued  
19          under this subsection shall be entered only after no-  
20          tice and opportunity for a hearing, unless the Com-  
21          mission determines that notice and hearing prior to  
22          entry would be impracticable or contrary to the pub-  
23          lic interest.

24          “(3) EFFECTIVE DATE.—A temporary order  
25          issued under this subsection shall—

1           “(A) become effective upon service upon  
2           the respondent; and

3           “(B) unless set aside, limited, or sus-  
4           pended by the Commission or a court of com-  
5           petent jurisdiction, remain effective and en-  
6           forceable pending the completion of the pro-  
7           ceedings.

8           “(f) REVIEW OF TEMPORARY ORDERS.—

9           “(1) APPLICATION FOR REVIEW.—At any time  
10          after a respondent has been served with a temporary  
11          cease-and-desist order pursuant to subsection (d) or  
12          order regarding the dissipation or conversion of as-  
13          sets pursuant to subsection (e), the respondent may  
14          apply to the Commission to have the order set aside,  
15          limited, or suspended.

16          “(2) NO PRIOR HEARING.—If a respondent has  
17          been served with a temporary order entered without  
18          a prior hearing of the Commission—

19                 “(A) the respondent may, not later than  
20                 10 days after the date on which the order was  
21                 served, request a hearing on the application;  
22                 and

23                 “(B) the Commission shall hold a hearing  
24                 and render a decision on the application at the  
25                 earliest practicable time.

1 “(3) JUDICIAL REVIEW.—

2 “(A) IN GENERAL.—An entity shall not be  
3 required to submit a request for rehearing of a  
4 temporary order prior to seeking judicial review  
5 in accordance with section 506(a)(2).

6 “(B) TIMING OF REVIEW.—Not later than  
7 10 days after the date on which a respondent  
8 was served with a temporary cease-and-desist  
9 order entered with a prior hearing of the Com-  
10 mission, or 10 days after the date on which the  
11 Commission renders a decision on an applica-  
12 tion and hearing under paragraph (1) with re-  
13 spect to any temporary order entered without a  
14 prior hearing of the Commission—

15 “(i) a respondent may obtain a review  
16 of the order in a United States circuit  
17 court having jurisdiction over the circuit in  
18 which the respondent resides or has a prin-  
19 cipal place of business, or in the United  
20 States Court of Appeals for the District of  
21 Columbia Circuit, for an order setting  
22 aside, limiting, or suspending the effective-  
23 ness or enforcement of the order; and

24 “(ii) the court shall have jurisdiction  
25 to enter such an order.

1           “(C) NO PRIOR HEARING.—A respondent  
2 served with a temporary order entered without  
3 a prior hearing of the Commission may not  
4 apply to the applicable court described in sub-  
5 paragraph (B) except after a hearing and deci-  
6 sion by the Commission on the application of  
7 the respondent under paragraphs (1) and (2).

8           “(4) PROCEDURES.—Section 506(a)(4) shall  
9 apply to—

10           “(A) an application for review of an order  
11 under paragraph (1); and

12           “(B) an order subject to review under  
13 paragraph (3).

14           “(5) NO AUTOMATIC STAY OF TEMPORARY  
15 ORDER.—The commencement of proceedings under  
16 paragraph (3) shall not, unless specifically ordered  
17 by the court, operate as a stay of the order of the  
18 Commission.

19           “(g) REGULATIONS AND ORDERS.—The Commission  
20 may promulgate such regulations and issue such orders  
21 as the Commission determines to be necessary to carry  
22 out this section.”.

23 **SEC. 4. FEDERAL POWER ACT.**

24           (a) REGULATION OF ELECTRIC UTILITY COMPANIES  
25 ENGAGED IN INTERSTATE COMMERCE.—Section 202 of

1 the Federal Power Act (16 U.S.C. 824a) is amended by  
2 adding at the end the following:

3 “(h) EMERGENCY AUTHORITY.—

4 “(1) IN GENERAL.—Subject to paragraphs (2)  
5 and (3), if necessary in the case of an emergency to  
6 ensure continued reliability of service to electric con-  
7 sumers or to protect electric customers from poten-  
8 tial abuse of market power or market manipulation  
9 in wholesale markets regulated by the Commission,  
10 the Commission, upon petition or upon a motion of  
11 the Commission, and before providing public notice  
12 and an opportunity for comment, shall have emer-  
13 gency authority to change or suspend temporarily  
14 the rates, terms, or conditions of service on file with  
15 the Commission pursuant to this Act.

16 “(2) DURATION.—A temporary change or sus-  
17 pension under paragraph (1) may remain in effect  
18 for a period of not more than 30 days unless the  
19 Commission, during that period—

20 “(A) provides formal public notice and an  
21 opportunity for comment in accordance with  
22 section 206; and

23 “(B) determines that the a change or sus-  
24 pension shall remain in effect pursuant to that  
25 section.

1           “(3) EFFECTIVE DATE.—Any temporary change  
2 or suspension of a filed rate, term, or condition of  
3 service under paragraph (1) shall take effect only  
4 upon the date of issuance by the Commission of  
5 written public notice stating the findings of the  
6 Commission in support of the temporary change or  
7 suspension.”.

8           (b) LICENSEES AND PUBLIC UTILITIES; PROCE-  
9 DURAL AND ADMINISTRATIVE PROVISIONS.—Section 314  
10 of the Federal Power Act (16 U.S.C. 825m) is amended  
11 by adding at the end the following:

12           “(e) CEASE-AND-DESIST PROCEEDINGS.—

13           “(1) IN GENERAL.—If the Commission deter-  
14 mines that any entity may be violating, may have  
15 violated, or may be about to violate any provision of  
16 this Act, or any regulation promulgated by, or any  
17 restriction, condition, or order made or imposed by,  
18 the Commission under this Act, and if the Commis-  
19 sion finds that the alleged violation or threatened  
20 violation, or the continuation of the violation, is like-  
21 ly to result in significant harm to electricity con-  
22 sumers or significant harm to the public interest, the  
23 Commission may issue a temporary order requiring  
24 the respondent—

1           “(A) to cease and desist from the violation  
2 or threatened violation;

3           “(B) to take such action as is necessary to  
4 prevent the violation or threatened violation;  
5 and

6           “(C) to prevent, as the Commission deter-  
7 mines to be appropriate—

8                 “(i) significant harm to electricity  
9 consumers;

10                “(ii) significant harm to the public in-  
11 terest; and

12                “(iii) frustration of the ability of the  
13 Commission to conduct the proceedings or  
14 to redress the violation at the conclusion of  
15 the proceedings.

16           “(2) TIMING OF ENTRY.—An order issued  
17 under this subsection shall be entered only after no-  
18 tice and opportunity for a hearing, unless the Com-  
19 mission determines that notice and hearing prior to  
20 entry would be impracticable or contrary to the pub-  
21 lic interest.

22           “(3) EFFECTIVE DATE.—A temporary order  
23 issued under this subsection shall—

24                 “(A) become effective upon service upon  
25 the respondent; and

1           “(B) unless set aside, limited, or sus-  
2           pended by the Commission or a court of com-  
3           petent jurisdiction, remain effective and en-  
4           forceable pending the completion of the pro-  
5           ceedings.

6           “(f) PROCEEDINGS REGARDING DISSIPATION OR  
7           CONVERSION OF ASSETS.—

8           “(1) IN GENERAL.—In a proceeding involving  
9           an alleged violation of a regulation or order promul-  
10          gated or issued by the Commission in accordance  
11          with section 222, if the Commission determines that  
12          the alleged violation or related circumstances are  
13          likely to result in significant dissipation or conver-  
14          sion of assets, the Commission may issue a tem-  
15          porary order requiring the respondent to take such  
16          action as is necessary to prevent the dissipation or  
17          conversion of assets.

18          “(2) TIMING OF ENTRY.—An order issued  
19          under this subsection shall be entered only after no-  
20          tice and opportunity for a hearing, unless the Com-  
21          mission determines that notice and hearing prior to  
22          entry would be impracticable or contrary to the pub-  
23          lic interest.

24          “(3) EFFECTIVE DATE.—A temporary order  
25          issued under this subsection shall—

1           “(A) become effective upon service upon  
2           the respondent; and

3           “(B) unless set aside, limited, or sus-  
4           pended by the Commission or a court of com-  
5           petent jurisdiction, remain effective and en-  
6           forceable pending the completion of the pro-  
7           ceedings.

8           “(g) REVIEW OF TEMPORARY ORDERS.—

9           “(1) APPLICATION FOR REVIEW.—At any time  
10          after a respondent has been served with a temporary  
11          cease-and-desist order pursuant to subsection (e) or  
12          order regarding the dissipation or conversion of as-  
13          sets pursuant to subsection (f), the respondent may  
14          apply to the Commission to have the order set aside,  
15          limited, or suspended.

16          “(2) NO PRIOR HEARING.—If a respondent has  
17          been served with a temporary order entered without  
18          a prior hearing of the Commission—

19                 “(A) the respondent may, not later than  
20                 10 days after the date on which the order was  
21                 served, request a hearing on the application;  
22                 and

23                 “(B) the Commission shall hold a hearing  
24                 and render a decision on the application at the  
25                 earliest practicable time.

1 “(3) JUDICIAL REVIEW.—

2 “(A) IN GENERAL.—An entity shall not be  
3 required to submit a request for rehearing of a  
4 temporary order prior to seeking judicial review  
5 in accordance with section 313(a).

6 “(B) TIMING OF REVIEW.—Not later than  
7 10 days after the date on which a respondent  
8 was served with a temporary cease-and-desist  
9 order entered with a prior hearing of the Com-  
10 mission, or 10 days after the date on which the  
11 Commission renders a decision on an applica-  
12 tion and hearing under paragraph (1) with re-  
13 spect to any temporary order entered without a  
14 prior hearing of the Commission—

15 “(i) a respondent may obtain a review  
16 of the order in a United States circuit  
17 court having jurisdiction over the circuit in  
18 which the respondent resides or has a prin-  
19 cipal place of business, or in the United  
20 States Court of Appeals for the District of  
21 Columbia Circuit, for an order setting  
22 aside, limiting, or suspending the effective-  
23 ness or enforcement of the order; and

24 “(ii) the court shall have jurisdiction  
25 to enter such an order.

1           “(C) NO PRIOR HEARING.—A respondent  
2 served with a temporary order entered without  
3 a prior hearing of the Commission may not  
4 apply to the applicable court described in sub-  
5 paragraph (B) except after a hearing and deci-  
6 sion by the Commission on the application of  
7 the respondent under paragraphs (1) and (2).

8           “(4) PROCEDURES.—Section 313(a) shall apply  
9 to—

10           “(A) an application for review of an order  
11 under paragraph (1); and

12           “(B) an order subject to review under  
13 paragraph (3).

14           “(5) NO AUTOMATIC STAY OF TEMPORARY  
15 ORDER.—The commencement of proceedings under  
16 paragraph (3) shall not, unless specifically ordered  
17 by the court, operate as a stay of the order of the  
18 Commission.

19           “(h) REGULATIONS AND ORDERS.—The Commission  
20 may promulgate such regulations and issue such orders  
21 as the Commission determines to be necessary to carry  
22 out this section.”.

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