

Kathy Castor

(Original Signature of Member)

118TH CONGRESS
1ST SESSION

H. R.

To direct the Federal Energy Regulatory Commission to prohibit covered utilities from recovering covered expenses from ratepayers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. CASTOR of Florida introduced the following bill; which was referred to the Committee on _____

A BILL

To direct the Federal Energy Regulatory Commission to prohibit covered utilities from recovering covered expenses from ratepayers, 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 “Ethics in Energy Act
5 of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) CENTRALIZED SERVICE COMPANY.—The
2 term “centralized service company” has the meaning
3 given the term in section 367.1(a) of title 18, Code
4 of Federal Regulations (or a successor regulation).

5 (2) COMMISSION.—The term “Commission”
6 means the Federal Energy Regulatory Commission.

7 (3) COVERED EXPENSE.—The term “covered
8 expense” means a direct or indirect expense paid by
9 a covered utility to—

10 (A) an external entity to perform political
11 influence activities;

12 (B) a centralized service company, parent
13 company, or other corporate affiliate—

14 (i) to perform a political influence ac-
15 tivity; and

16 (ii) that invoices that covered utility
17 for the expenses related to that political in-
18 fluence activity; or

19 (C) an employee of that covered utility, in
20 the form of a salary, that performs a political
21 influence activity.

22 (4) COVERED UTILITY.—The term “covered
23 utility” means—

24 (A) an electric utility company (as defined
25 in section 367.1(a) of title 18, Code of Federal

1 Regulations (or a successor regulation)) that
2 had, in each of the 3 previous calendar years,
3 sales or transmission services that exceeded—

4 (i) 1,000,000 megawatt-hours of total
5 annual sales;

6 (ii) 100 megawatt-hours of annual
7 sales for resale;

8 (iii) 500 megawatt-hours of annual
9 power exchanges delivered; or

10 (iv) 500 megawatt-hours of annual
11 wheeling;

12 (B) a major natural gas company; and

13 (C) a centralized service company.

14 (5) MAJOR NATURAL GAS COMPANY.—The term
15 “major natural gas company” means a natural-gas
16 company (as defined in section 2 of the Natural Gas
17 Act (15 U.S.C. 717a)) whose combined gas trans-
18 ported or stored for a fee exceed 50,000,000 Dth in
19 each of the 3 previous calendar years.

20 (6) POLITICAL INFLUENCE ACTIVITY.—The
21 term “political influence activity” includes—

22 (A) any expense for the purpose of directly
23 or indirectly influencing the possible—

24 (i) adoption of Federal, State, or local
25 regulations, legislation, or ordinances; or

1 (ii) repeal or modification of existing
2 Federal, State, or local regulations, legisla-
3 tion, or ordinances;

4 (B) any expense for the purpose of directly
5 or indirectly influencing elections or appoint-
6 ments of public officials or referenda;

7 (C) any expense for the purpose of directly
8 or indirectly influencing the approval, modifica-
9 tion, or revocation of utility franchises;

10 (D) any expense for the purpose of directly
11 or indirectly influencing the public opinion with
12 respect to Federal, State, or local—

13 (i) regulations, legislation, or ordi-
14 nances;

15 (ii) elections;

16 (iii) referenda; or

17 (iv) utility rate setting;

18 (E) any expense for the purpose of directly
19 or indirectly influencing the decisions of Fed-
20 eral, State, or local government officials;

21 (F) any expense relating to attendance or
22 participation in, preparation for, or appeal of
23 any formal proceeding before a regulatory com-
24 mission;

1 (G) dues or fees paid to trade associations
2 or industry associations;

3 (H) any contributions or other payments
4 to an organization described in paragraph (3)
5 or (4) of section 501(e) of the Internal Revenue
6 Code of 1986; and

7 (I) advertising, marketing, or public rela-
8 tions expenses designed for the purpose of—

9 (i) influencing public opinion;

10 (ii) increasing goodwill toward a cov-
11 ered utility from the public or from public
12 officials;

13 (iii) improving the reputation of a cov-
14 ered utility; or

15 (iv) promoting or retaining the service
16 provided by a covered utility.

17 **SEC. 3. PROHIBITION AGAINST RECOVERING POLITICAL**
18 **ACTIVITY EXPENSES FROM RATEPAYERS.**

19 (a) REGULATIONS.—Not later than 18 months after
20 the date of enactment of this Act, the Commission shall
21 promulgate regulations—

22 (1) to prohibit covered utilities from recovering
23 covered expenses from ratepayers in proceedings be-
24 fore the Commission, in accordance with this sec-
25 tion; and

1 (2) to amend the applicable Uniform System of
2 Accounts in title 18, Code of Federal Regulations
3 (or successor regulations), to instruct covered utili-
4 ties to place covered expenses in accounts that are
5 presumptively not recoverable from ratepayers, in
6 accordance with this section.

7 (b) REPORT.—

8 (1) IN GENERAL.—The Commission shall re-
9 quire that, not later than 18 months after the date
10 of enactment of this Act, and annually thereafter,
11 each covered utility shall submit to the Commission
12 a report containing—

13 (A) an itemized list of expenses of the pre-
14 ceding year recorded in accounts relating to—

15 (i) covered expenses;

16 (ii) outside services or vendors; and

17 (iii) the operations of the covered util-

18 ity with respect to administrative and gen-

19 eral expenses; and

20 (B) for each expense or cost described in
21 clauses (i) through (iii) of subparagraph (A),
22 unredacted information with respect to each of
23 the matters described in paragraph (2) that are
24 applicable to that expense or cost.

1 (2) MATTERS DESCRIBED.—The matters re-
2 ferred to in paragraph (1)(B) for the expenses and
3 costs described in clauses (i) through (iii) of para-
4 graph (1)(A) are the following:

5 (A) Billing amounts.

6 (B) Billing dates.

7 (C) The identity of each payee for any ex-
8 ternal consultants or contracts.

9 (D) In the case of a payment made to a
10 third-party vendor by a centralized service com-
11 pany, parent company, or other corporate affil-
12 iate of the covered utility, the identity of that
13 third-party vendor.

14 (E) The job title, portion of salaries, and
15 expenses of covered utility staff with respect to
16 any work performed relating to a covered ex-
17 pense.

18 (F) An explanation of the expense or cost
19 that is sufficient to describe the purpose of the
20 expense or cost.

21 (3) REPORTING MINIMUM REMOVED.—With re-
22 spect to any annual form that a covered utility sub-
23 mits to the Commission having a reporting threshold
24 of \$250,0000, the Commission shall remove that re-
25 porting threshold for the reporting of transactions

1 with associated or affiliated companies on that an-
2 nual form.

3 (c) ENFORCEMENT.—

4 (1) IN GENERAL.—The Commission shall mon-
5 itor and investigate compliance and noncompliance
6 with the regulations promulgated under this section.

7 (2) PENALTY.—

8 (A) IN GENERAL.—In addition to any re-
9 funds that the Commission orders a covered
10 utility to pay ratepayers, the Commission shall
11 assess a penalty in accordance with subpara-
12 graph (B) against a covered utility that violates
13 or fails or refuses to comply with the regula-
14 tions promulgated under this section by charg-
15 ing a ratepayer a covered expense.

16 (B) AMOUNT OF PENALTY.—

17 (i) IN GENERAL.—Subject to clause
18 (ii), a penalty assessed under subpara-
19 graph (A) shall be—

20 (I) for a covered expense charged
21 to ratepayers in an amount less than
22 \$1,000,000, not less than the amount
23 of that covered expense;

24 (II) for a covered expense
25 charged to ratepayers in an amount

1 not less than \$1,000,000 and not
2 more than \$10,000,000, not less than
3 double the amount of that covered ex-
4 pense; and

5 (III) for a covered expense
6 charged to ratepayers in an amount
7 more than \$10,000,000, not less than
8 triple the amount of that covered ex-
9 pense.

10 (ii) LIMITATION.—The amount of a
11 penalty assessed under subparagraph (A)
12 shall be not more than 20 times the
13 amount of the applicable covered expense.

14 (3) NO RECOVERY FROM RATEPAYERS.—Cov-
15 ered utilities that are subject to a penalty under this
16 subsection may not recover that penalty from rate-
17 payers.

18 (4) PENALTY DISTRIBUTION.—With respect to
19 each penalty assessed and collected under this sub-
20 section—

21 (A) $\frac{1}{2}$ of that penalty shall be distributed
22 to ratepayers, through a rebate; and

23 (B) $\frac{1}{2}$ of that penalty shall be distributed
24 to the Commission for the purpose of increasing
25 resources for enforcing this section.

1 (5) RULE OF CONSTRUCTION.—Nothing in this
2 Act prevents the Commission from issuing refunds
3 or rebates to ratepayers for a covered expense that
4 was recovered by a covered utility on a date before
5 the date of enactment of this Act.