CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

May 17, 2013

H.R. 271
Resolving Environmental and Grid Reliability Conflicts Act of 2013

As ordered reported by the House Committee on Energy and Commerce on May 15, 2013

CBO estimates that H.R. 271 would have no significant impact on the federal budget. The bill would amend existing law regarding actions taken by electric utilities when the Department of Energy (DOE) determines that the electric power system is experiencing emergency conditions. Under current law, during a designated emergency, DOE can require firms to produce or supply electricity to avoid or resolve blackouts or other risks to the electric power system. If those actions violate other regulatory requirements, such as air pollution limits, the affected firms may be liable for penalties under those laws. H.R. 271 would revise this framework by establishing new procedures for ensuring compliance with environmental standards during designated emergencies. The bill also would exempt firms from certain civil and criminal liability if the actions taken to comply with DOE's emergency orders violate environmental or other regulatory standards.

Pay-as-you go procedures apply to this legislation because it could affect revenues and direct spending. CBO estimates, however, that the impact on the federal budget would be insignificant over the 2013-2023 period. According to DOE, it has issued emergency orders to electric utilities six times since 1978, and none of those transactions resulted in the payment of penalties. Based on that historical experience, CBO estimates that revenues from such penalties would not be significant over the next 10 years under current law; as a result, CBO estimates that reducing firms' liability for such penalties would not result in any significant loss of federal revenues.

Similarly, CBO estimates that enacting H.R. 271 would have no significant net effect on direct spending by the federal power agencies (such as the Tennessee Valley Authority) that could be liable for such penalties. Finally, we estimate that implementing the bill would have no significant effect on spending subject to appropriation.

The bill would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting state and local environmental and liability laws. Energy facilities would be exempt from complying with such laws if those laws conflict with an emergency order issued by the Federal Energy Regulatory Commission (FERC) to provide temporary connections of public facilities for electrical transmission.

While the preemption would limit the application of state law, CBO estimates that it would impose no duty on state, local, or tribal governments that would result in additional spending. (As a result, the threshold established by UMRA for costs of intergovernmental mandates would not be exceeded.)

The bill would impose a private-sector mandate to the extent that it eliminates an existing right to seek compensation for damages under environmental laws from utilities operating in compliance with a federal emergency order issued by DOE. The cost of the mandate would be the forgone value of awards and settlements in such claims. Because DOE has issued emergency orders infrequently, CBO expects that claims would be uncommon in the future. Consequently, CBO expects that the cost of the mandates would fall below the annual threshold for private-sector mandates ($150 million in 2013, adjusted annually for inflation).

The CBO staff contacts for this estimate are Kathleen Gramp (for federal costs), J'nell L. Blanco (for the impact on state and local governments), and Amy Petz (for the impact on the private sector). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.