



Continuity of Electric Capacity Resources Act

S. 1222 promotes diversity of electric supply, continuity of electric capacity, and compliance with “must-run” orders that may be issued by the Secretary of Energy.

Background

In recent years, the installation of new electric generation capacity has slowed. At the same time, existing “baseload” capacity units, such as nuclear plants that are capable of operating continuously and providing much-needed grid reliability services, are increasingly at risk from government regulations, tax policies and market forces. In certain Regional Transmission Organization (RTO) markets, capacity revenues have been essential to enable baseload units to run because the RTO market rules, as approved by FERC, require electrical entities to show that they have sufficient capacity to meet reliability requirements and serve their loads.

In emergency situations, such as when grid reliability is threatened, the Secretary of Energy has the ability to order electric generating units to run. In the past, this has put utilities in a situation where running the plant in compliance with the Department of Energy’s emergency order could result in that unit exceeding an environmental permit, thus subjecting it to litigation. Given the paramount importance of a safe and reliable electrical grid, liability protection is needed for those entities subject to an emergency order by the Secretary of Energy.

Key Provisions

- Requires reports to assess the RTO capacity situation, sets forth a series of objectives for reliability, including an enhanced opportunity for self-supply for public power entities.
- Requires RTOs to make filings with FERC for changes in their tariffs to meet the objectives – a framework for industry, the RTOs and FERC to improve capacity markets.
- Provides that a generator owner that has been ordered by the Secretary of Energy under established legal authority to keep its unit running shall not be liable for actions carried out in compliance with the Secretary of Energy’s order.