



CONGRESSIONAL BUDGET OFFICE
COST ESTIMATE

September 15, 2010

H.R. 5026

**An act to amend the Federal Power Act to protect
the bulk-power system and electric infrastructure critical to
the defense of the United States against cybersecurity
and other threats and vulnerabilities**

*As ordered reported by the Senate Committee on Energy and Natural Resources
on August 5, 2010*

H.R. 5026 would amend existing law regarding the regulation of facilities that transmit electric power. Under existing law, most of the standards governing the reliability of the electric power system are issued by the Electric Reliability Organization (ERO), subject to approval and enforcement by the Federal Energy Regulatory Commission (FERC). This act would direct FERC to issue standards regarding the security of computer networks used to facilitate electric power transmission (known as cybersecurity), which would remain in effect until the ERO adopts regulations for such matters. The bill also would direct the Department of Defense (DoD) to conduct a study of grid security in certain states and territories and establish procedures for responding to emergencies and protecting information related to cybersecurity.

Enacting this legislation would affect direct spending by the federal power agencies that would be subject to the new regulations and standards; therefore, pay-as-you-go procedures apply. Based on information from the Tennessee Valley Authority and Bonneville Power Administration, CBO estimates that any effects of the legislation on net direct spending would be negligible because the new standards would be similar to those currently followed by federal agencies as a result of other statutory directives. The act also would affect spending at FERC and DoD, which is controlled by annual appropriation acts. Assuming appropriation of the necessary amounts, CBO estimates that DoD's analyses of grid security would cost about \$1 million. Any increase in FERC's administrative costs would have no net budgetary impact because the agency recovers 100 percent of its costs through user fees. CBO estimates that enacting this bill would not affect revenues.

H.R. 5026 would impose an intergovernmental and private-sector mandate as defined in the Unfunded Mandates Reform Act (UMRA). The act would authorize FERC to issue rules and standards to protect the electric power system from cyber threats. Public and private entities that generate, transmit, or distribute electricity could be affected by those rules or standards. The costs of the mandate could be significant but would depend on future regulations. Consequently, CBO cannot determine whether the costs of the mandate would exceed the annual threshold for private-sector mandates (\$141 million in 2010, adjusted annually for inflation). Because public entities own and operate a small fraction of the nation's electric power infrastructure, CBO expects that the costs of the mandate would fall below the annual threshold established in UMRA for intergovernmental mandates (\$70 million in 2010, adjusted annually for inflation).

CBO has not reviewed provisions of the act that would provide FERC and the Secretary of Energy with expedited or emergency authority to protect the electric transmission grid from threats to those computer networks for intergovernmental or private-sector mandates. Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act any legislative provisions that are necessary for national security. CBO has determined that those provisions fall within that exclusion.

On May 19, 2010, CBO transmitted a cost estimate for H.R. 5026, the Grid Reliability and Infrastructure Defense Act, as ordered reported by the House Committee on Energy and Commerce on April 15, 2010. The Senate version of this legislation would authorize fewer programs and regulatory measures than the House bill, resulting in a smaller cost than CBO estimated for the House bill.

The CBO staff contacts for this estimate are Kathleen Gramp (for federal costs), Ryan Miller (for the intergovernmental impact), and Amy Petz (for the private-sector impact). The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.