

106TH CONGRESS
1ST SESSION

H. R. 2602

To amend the Federal Power Act with respect to electric reliability and oversight, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 1999

Mr. WYNN introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend the Federal Power Act with respect to electric reliability and oversight, 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 “National Electricity
5 Interstate Transmission Reliability Act”.

6 **SEC. 2. ELECTRIC RELIABILITY ORGANIZATION AND OVER-**
7 **SIGHT.**

8 (a) IN GENERAL.—The Federal Power Act is amend-
9 ed by adding the following new section after section 214:

1 **“SEC. 215. ELECTRIC RELIABILITY ORGANIZATION AND**
2 **OVERSIGHT.**

3 “(a) DEFINITIONS.—As used in this section:

4 “(1) AFFILIATED REGIONAL LIABILITY ENTI-
5 TY.—The term ‘affiliated regional reliability entity’
6 means an entity delegated authority under the provi-
7 sions of subsection (h).

8 “(2) BULK-POWER SYSTEM.—The term ‘bulk-
9 power system’ means all facilities and control sys-
10 tems necessary for operating an interconnected
11 transmission grid (or any portion thereof), including
12 high-voltage transmission lines, substations, control
13 centers, communications, data, and operations plan-
14 ning facilities, and the output of generating units
15 necessary to maintain transmission system reli-
16 ability.

17 “(3) ELECTRIC RELIABILITY ORGANIZATION, OR
18 ORGANIZATION.—The term ‘electric reliability orga-
19 nization’ or ‘organization’ means the organization
20 approved by the Commission under subsection
21 (d)(4).

22 “(4) ENTITY RULE.—The term ‘entity rule’
23 means a rule adopted by an affiliated regional reli-
24 ability entity for a specific region and designed to
25 implement or enforce one or more organization
26 standards. An entity rule shall be approved by the

1 organization and once approved, shall be treated as
2 an organization standard.

3 “(5) INDUSTRY SECTOR.—The term ‘industry
4 sector’ means a group of users of the bulk power
5 system with substantially similar commercial inter-
6 ests, as determined by the Board of the electric reli-
7 ability organization.

8 “(6) INTERCONNECTION.—The term ‘inter-
9 connection’ means a geographic area in which the
10 operation of bulk-power system components is syn-
11 chronized such that the failure of one or more of
12 such components may adversely affect the ability of
13 the operators of other components within the inter-
14 connection to maintain safe and reliable operation of
15 the facilities within their control.

16 “(7) ORGANIZATION STANDARD.—The term ‘or-
17 ganization standard’ means a policy or standard
18 duly adopted by the electric reliability organization
19 to provide for the reliable operation of a bulk-power
20 system.

21 “(8) PUBLIC INTEREST GROUP.—The term
22 ‘public interest group’ means any nonprofit private
23 or public organization that has an interest in the ac-
24 tivities of the electric reliability organization, includ-
25 ing, but not limited to, ratepayer advocates, environ-

1 mental groups, and State and local government or-
2 ganizations that regulate market participants and
3 promulgate government policy.

4 “(9) VARIANCE.—The term ‘variance’ means an
5 exception or variance from the requirements of an
6 organization standard (including a proposal for an
7 organization standard where there is no organization
8 standard) that is adopted by an affiliated regional
9 reliability entity and applicable to all or a part of the
10 region for which the affiliated regional reliability en-
11 tity is responsible. A variance shall be approved by
12 the organization and once approved, shall be treated
13 as an organization standard.

14 “(10) SYSTEM OPERATOR.—The term ‘system
15 operator’ means any entity that operates or is re-
16 sponsible for the operation of a bulk-power system,
17 including but not limited to a control area operator,
18 an independent system operator, a transmission
19 company, a transmission system operator, or a re-
20 gional security coordinator.

21 “(11) USER OF THE BULK-POWER SYSTEM.—
22 The term ‘user of the bulk-power system’ means any
23 entity that sells, purchases, or transmits electric
24 power over a bulk-power system, or that owns, oper-
25 ates, or maintains facilities or control systems that

1 are part of a bulk-power system, or that is a system
2 operator.

3 “(b) COMMISSION AUTHORITY.—(1) Within the
4 United States, the Commission shall have jurisdiction over
5 the electric reliability organization, all affiliated regional
6 reliability entities, all system operators, and all users of
7 the bulk-power system, for purposes of approving and en-
8 forcing compliance with the requirements of this section.

9 “(2) The Commission may, by rule, define any other
10 term used in this section, provided such definition is con-
11 sistent with the definitions in, and the purpose and intent
12 of, this Act.

13 “(c) EXISTING RELIABILITY STANDARDS.—Fol-
14 lowing enactment of this section, and prior to the approval
15 of an organization under subsection (d), any person, in-
16 cluding the North American Electric Reliability Council
17 and its member regional reliability councils, may file any
18 reliability standard, guidance, or practice that they would
19 propose to be made mandatory and enforceable. The Com-
20 mission, after allowing interested persons an opportunity
21 to submit comments, may approve any such proposed
22 mandatory standard, guidance, or practice, or any amend-
23 ment thereto, if it finds that the standard, guidance, or
24 practice, or amendment is just, reasonable, not unduly dis-
25 criminatory or preferential, and in the public interest. The

1 Commission may, without further proceeding or finding,
2 grant its approval to any standard, guidance, or practice
3 for which no substantive objections are filed in the com-
4 ment period. Filed standards, guidances, or practices, in-
5 cluding any amendments thereto, shall be mandatory and
6 applicable according to their terms following approval by
7 the Commission and shall remain in effect until (1) with-
8 drawn, disapproved, or superseded by an organization
9 standard, issued or approved by the electric reliability or-
10 ganization and made effective by the Commission under
11 subsection (e); or (2) disapproved or suspended by the
12 Commission if, upon complaint or upon its own motion
13 and after notice and an opportunity for comment, the
14 Commission finds the standard, guidance, or practice un-
15 just, unreasonable, unduly discriminatory, or preferential
16 or not in the public interest. Standards, guidances, or
17 practices in effect pursuant to the provisions of this sub-
18 section shall be enforceable by the Commission.

19 “(d) ORGANIZATION APPROVAL.—(1) Not later than
20 90 days after the date of enactment of this section, the
21 Commission shall issue proposed rules specifying proce-
22 dures and requirements for an entity to apply for approval
23 as the electric reliability organization. The Commission
24 shall provide notice and opportunity for comment on the
25 proposed rules. The Commission shall issue a final rule

1 under this subsection within 180 days after the date of
2 enactment of this section.

3 “(2) Following the issuance of a final Commission
4 rule under paragraph (1), an entity may submit an appli-
5 cation to the Commission for approval as the electric reli-
6 ability organization. The applicant shall specify in its ap-
7 plication its governance and procedures, as well as its
8 funding mechanism and initial funding requirements.

9 “(3) The Commission shall provide public notice of
10 the application and afford interested parties an oppor-
11 tunity to comment.

12 “(4) The Commission shall approve the application
13 if the Commission determines that the applicant—

14 “(A) has the ability to develop, implement, and
15 enforce standards that provide for an adequate level
16 of reliability of the bulk-power system;

17 “(B) permits voluntary membership to any user
18 of the bulk-power system or public interest group;

19 “(C) assures fair representation of its members
20 in the selection of its directors and fair management
21 of its affairs, taking into account the need for effi-
22 ciency and effectiveness in decisionmaking and oper-
23 ations and the requirements for technical com-
24 petency in the development of organization stand-

1 ards and the exercise of oversight of bulk-power sys-
2 tem reliability;

3 “(D) assures that no two industry sectors have
4 the ability to control, and no one industry sector has
5 the ability to veto, the electric reliability organiza-
6 tion’s discharge of its responsibilities (including ac-
7 tions by committees recommending standards to the
8 board or other board actions to implement and en-
9 force standards);

10 “(E) provides for governance by a board wholly
11 comprised of independent directors;

12 “(F) provides a funding mechanism and re-
13 quirements that are just, reasonable, and not unduly
14 discriminatory or preferential and are in the public
15 interest, and which satisfy the requirements of sub-
16 section (l);

17 “(G) establishes procedures for development of
18 organization standards that provide reasonable no-
19 tice and opportunity for public comment, taking into
20 account the need for efficiency and effectiveness in
21 decisionmaking and operations and the requirements
22 for technical competency in the development of orga-
23 nization standards, and which standards develop-
24 ment process has the following attributes:

25 “(i) openness,

1 “(ii) balance of interests, and

2 “(iii) due process, except that the proce-
3 dures may include alternative procedures for
4 emergencies;

5 “(H) establishes fair and impartial procedures
6 for implementation and enforcement of organization
7 standards, either directly or through delegation to
8 an affiliated regional reliability entity, including the
9 imposition of penalties, limitations on activities,
10 functions, or operations, or other appropriate sanc-
11 tions;

12 “(I) establishes procedures for notice and op-
13 portunity for public observation of all meetings, ex-
14 cept that the procedures for public observation may
15 include alternative procedures for emergencies or for
16 the discussion of information the directors determine
17 should take place in closed session, such as litiga-
18 tion, personnel actions, or commercially sensitive in-
19 formation;

20 “(J) provides for the consideration of rec-
21 ommendations of States and State commissions; and

22 “(K) addresses other matters that the Commis-
23 sion may deem necessary or appropriate to ensure
24 that the procedures, governance, and funding of the
25 electric reliability organization are just, reasonable,

1 not unduly discriminatory or preferential, and are in
2 the public interest.

3 “(5) The Commission shall approve only one electric
4 reliability organization. If the Commission receives two or
5 more timely applications that satisfy the requirements of
6 this subsection, the Commission shall approve only the ap-
7 plication it concludes will best implement the provisions
8 of this section.

9 “(e) ESTABLISHMENT OF AND MODIFICATIONS TO
10 ORGANIZATION STANDARDS.—(1) The electric reliability
11 organization shall file with the Commission any new or
12 modified organization standards, including any variances
13 or entity rules, and the Commission shall follow the proce-
14 dures under paragraph (2) for review of that filing.

15 “(2) Submissions under paragraph (1) shall
16 include—

17 “(A) a concise statement of the purpose of the
18 proposal, and

19 “(B) a record of any proceedings conducted
20 with respect to such proposal.

21 The Commission shall provide notice of the filing of such
22 proposal and afford interested persons 30 days to submit
23 comments. The Commission, after taking into consider-
24 ation any submitted comments, shall approve or dis-
25 approve such proposal not later than 60 days after the

1 deadline for the submission of comments, except that the
2 Commission may extend the 60-day period for an addi-
3 tional 90 days for good cause, and except further that if
4 the Commission does not act to approve or disapprove a
5 proposal within the foregoing periods, the proposal shall
6 go into effect subject to its terms, without prejudice to
7 the authority of the Commission thereafter to suspend or
8 modify the proposal in accordance with the standards and
9 requirements of this section. Proposals approved by the
10 Commission shall take effect according to their terms but
11 not earlier than 30 days after the effective date of the
12 Commission's order, except as provided in paragraph (3)
13 of this subsection.

14 “(3)(A) In the exercise of its review responsibilities
15 under this subsection, the Commission shall give due
16 weight to the technical expertise of the electric reliability
17 organization with respect to the content of a new or modi-
18 fied organization standard, but shall not defer to the orga-
19 nization with respect to the effect of the standard on com-
20 petition. The Commission shall approve a proposed new
21 or modified organization standard if it determines the pro-
22 posal to be just, reasonable, not unduly discriminatory or
23 preferential, and in the public interest. The Commission,
24 either upon complaint or upon its own motion, shall sus-
25 pend an existing organization standard, if it determines

1 the standard to be unjust, unreasonable, unduly discrimi-
2 natory or preferential, or not in the public interest.

3 “(B) An existing or proposed organization standard
4 which is disapproved or suspended in whole or in part by
5 the Commission shall be remanded to the electric reli-
6 ability organization for further consideration.

7 “(C) The Commission, on its own motion or upon
8 complaint, may direct the electric reliability organization
9 to develop an organization standard, including modifica-
10 tion to an existing organization standard, addressing a
11 specific matter by a date certain if the Commission con-
12 siderers such new or modified organization standard nec-
13 essary or appropriate to further the purposes of this sec-
14 tion. The electric reliability organization shall file any such
15 new or modified organization standard in accordance with
16 this subsection.

17 “(D) An affiliated regional reliability entity may pro-
18 pose a variance or entity rule to the electric reliability or-
19 ganization. The affiliated regional reliability entity may
20 request that the electric reliability organization expedite
21 consideration of the proposal, and may file a notice of such
22 request with the Commission, if expedited consideration
23 is necessary to provide for bulk-power system reliability.
24 If the electric reliability organization fails to adopt the
25 variance or entity rule, either in whole or in part, the affli-

1 ated regional reliability entity may request that the Com-
2 mission review such action. If the Commission determines,
3 after its review of such a request, that the action of the
4 electric reliability organization did not conform to the ap-
5 plicable standards and procedures approved by the Com-
6 mission, or if the Commission determines that the variance
7 or entity rule is just, reasonable, not unduly discrimina-
8 tory or preferential, and in the public interest, and that
9 the electric reliability organization has unreasonably re-
10 jected the proposed variance or entity rule, then the Com-
11 mission may remand the proposed variance or entity rule
12 for further consideration by the electric reliability organi-
13 zation or may direct the electric reliability organization or
14 the affiliated regional reliability entity to develop a vari-
15 ance or entity rule consistent with that requested by the
16 affiliated regional reliability entity. Any such variance or
17 entity rule proposed by an affiliated regional reliability en-
18 tity shall be submitted to the electric reliability organiza-
19 tion for review and filing with the Commission in accord-
20 ance with the procedures specified in this subsection.

21 “(E) Notwithstanding any other provision of this sub-
22 section, a proposed organization standard or amendment
23 shall take effect according to its terms if the electric reli-
24 ability organization determines that an emergency exists
25 requiring that such proposed organization standard or

1 amendment take effect without notice or comment. The
2 electric reliability organization shall notify the Commission
3 immediately following such determination and shall file
4 such emergency organization standard or amendment with
5 the Commission not later than 5 days following such de-
6 termination and shall include in such filing an explanation
7 of the need for such emergency standard. Subsequently,
8 the Commission shall provide notice of the organization
9 standard or amendment for comment, and shall follow the
10 procedures set out in paragraphs (2) and (3) for review
11 of the new or modified organization standard. Any such
12 organization standard that has gone into effect shall re-
13 main in effect unless and until suspended or disapproved
14 by the Commission. If the Commission determines at any
15 time that the emergency organization standard or amend-
16 ment is not necessary, the Commission may suspend such
17 emergency organization standard or amendment.

18 “(4) All users of the bulk-power system shall comply
19 with any organization standard that takes effect under
20 this section.

21 “(f) COORDINATION WITH CANADA AND MEXICO.—
22 The electric reliability organization shall take all appro-
23 priate steps to gain recognition in Canada and Mexico.
24 The United States shall use its best efforts to enter into
25 international agreements with the appropriate govern-

1 ments of Canada and Mexico to provide for effective com-
2 pliance with organization standards and to provide for the
3 effectiveness of the electric reliability organization in car-
4 rying out its mission and responsibilities. All actions taken
5 by the electric reliability organization, any affiliated re-
6 gional reliability entity, and the Commission shall be con-
7 sistent with the provisions of such international agree-
8 ments.

9 “(g) CHANGES IN PROCEDURES, GOVERNANCE, OR
10 FUNDING.—(1) The electric reliability organization shall
11 file with the Commission any proposed change in its proce-
12 dures, governance, or funding, or any changes in the affili-
13 ated regional reliability entity’s procedures, governance, or
14 funding relating to delegated functions, and shall include
15 with the filing an explanation of the basis and purpose
16 for the change.

17 “(2) A proposed procedural change may take effect
18 90 days after filing with the Commission if the change
19 constitutes a statement of policy, practice, or interpreta-
20 tion with respect to the meaning or enforcement of an ex-
21 isting procedure. Otherwise, a proposed procedural change
22 shall take effect only upon a finding by the Commission,
23 after notice and opportunity for comments, that the
24 change is just, reasonable, not unduly discriminatory or

1 preferential, is in the public interest, and satisfies the re-
2 quirements of subsection (d)(4).

3 “(3) A change in governance or funding shall not
4 take effect unless the Commission finds that the change
5 is just, reasonable, not unduly discriminatory or pref-
6 erential, in the public interest, and satisfies the require-
7 ments of subsection (d)(4).

8 “(4)(A) The Commission, either upon complaint or
9 upon its own motion, may suspend a procedure or govern-
10 ance or funding provision if it determines the procedure
11 or provision does not meet the requirements of subsection
12 (d)(4) or is unjust, unreasonable, unduly discriminatory
13 or preferential, or otherwise not in the public interest.

14 “(B) The Commission, upon complaint or upon its
15 own motion, may require the electric reliability organiza-
16 tion to amend the procedures, governance, or funding if
17 the Commission determines that the amendment is nec-
18 essary to meet the requirements of this section. The elec-
19 tric reliability organization shall file the amendment in ac-
20 cordance with paragraph (1) of this subsection.

21 “(h) DELEGATIONS OF AUTHORITY.—(1) The elec-
22 tric reliability organization shall, upon request by an enti-
23 ty, enter into an agreement with such entity for the dele-
24 gation of authority to implement and enforce compliance
25 with organization standards in a specified geographic area

1 if the organization finds that the entity requesting the del-
2 egation satisfies the requirements of subparagraphs (A),
3 (B), (C), (D), (F), and (K) of subsection (d)(4), and if
4 the delegation promotes the effective and efficient imple-
5 mentation and administration of bulk-power system reli-
6 ability. The electric reliability organization may enter into
7 an agreement to delegate to the entity any other authority,
8 except that the electric reliability organization shall re-
9 serve the right to set and approve standards for bulk-
10 power system reliability.

11 “(2) The electric reliability organization shall file
12 with the Commission any agreement entered into under
13 this subsection and any information the Commission re-
14 quires with respect to the affiliated regional reliability en-
15 tity to which authority is to be delegated. The Commission
16 shall approve the agreement, following public notice and
17 an opportunity for comment, if it finds that the agreement
18 meets the requirements of paragraph (1), and is just, rea-
19 sonable, not unduly discriminatory or preferential, and is
20 in the public interest. A proposed delegation agreement
21 with an affiliated regional reliability entity organized on
22 an interconnection-wide basis shall be rebuttably pre-
23 sumed by the Commission to promote the effective and
24 efficient implementation and administration of bulk-power
25 system reliability. No delegation by the electric reliability

1 organization shall be valid unless approved by the Com-
2 mission.

3 “(3)(A) A delegation agreement entered into under
4 this subsection shall specify the procedures for an affili-
5 ated regional reliability entity to propose entity rules or
6 variances for review by the electric reliability organization.
7 With respect to any such proposal that would apply on
8 an interconnection-wide basis, the electric reliability orga-
9 nization shall presume such proposal valid if made by an
10 interconnection-wide affiliated regional reliability entity
11 unless the electric reliability organization makes a written
12 finding that the proposal—

13 “(i) was not developed in a fair and open proc-
14 ess that provided an opportunity for all interested
15 parties to participate;

16 “(ii) has a significant adverse impact on reli-
17 ability or commerce in other interconnections;

18 “(iii) fails to provide a level of reliability of the
19 bulk-power system within the interconnection such
20 that it would constitute a serious and substantial
21 threat to public health, safety, welfare, or national
22 security; or

23 “(iv) creates a serious and substantial burden
24 on competitive markets within the interconnection
25 that is not necessary for reliability.

1 “(B) With respect to any such proposal that would
2 apply only to part of an interconnection, the electric reli-
3 ability organization shall find such proposal valid if the
4 affiliated regional reliability entity or entities making the
5 proposal demonstrate that it—

6 “(i) was developed in a fair and open process
7 that provided an opportunity for all interested par-
8 ties to participate;

9 “(ii) would not have an adverse impact on com-
10 merce that is not necessary for reliability;

11 “(iii) provides a level of bulk-power system reli-
12 ability adequate to protect public health, safety, wel-
13 fare, and national security, and would not have a
14 significant adverse impact on reliability; and

15 “(iv) in the case of a variance, is based on le-
16 gitimate differences between regions or between sub-
17 regions within the affiliated regional reliability enti-
18 ty’s geographic area.

19 The electric reliability organization shall approve or dis-
20 approve such proposal within 120 days, or the proposal
21 shall be deemed approved. Following approval of any such
22 proposal under this paragraph, the electric reliability orga-
23 nization shall seek Commission approval pursuant to the
24 procedures prescribed under subsection (e)(3). Affiliated
25 regional reliability entities may not make requests for ap-

1 proval directly to the Commission except pursuant to sub-
2 section (e)(3)(D).

3 “(4) If an affiliated regional reliability entity re-
4 quests, consistent with paragraph (1) of this subsection,
5 that the electric reliability organization delegate authority
6 to it, but is unable within 180 days to reach agreement
7 with the electric reliability organization with respect to
8 such requested delegation, such entity may seek relief
9 from the Commission. If, following notice and opportunity
10 for comment, the Commission determines that a delega-
11 tion to the entity would meet the requirements of para-
12 graph (1) above, and that the delegation would be just,
13 reasonable, not unduly discriminatory or preferential, and
14 in the public interest, and that the electric reliability orga-
15 nization has unreasonably withheld such delegation, the
16 Commission may, by order, direct the electric reliability
17 organization to make such delegation.

18 “(5)(A) The Commission may, upon its own motion
19 or upon complaint, and with notice to the appropriate af-
20 filiated regional reliability entity or entities, direct the
21 electric reliability organization to propose a modification
22 to an agreement entered into under this subsection if the
23 Commission determines that—

24 “(i) the affiliated regional reliability entity no
25 longer has the capacity to carry out effectively or ef-

1 ficiently its implementation or enforcement respon-
2 sibilities under that agreement, has failed to meet its
3 obligations under that agreement, or has violated
4 any provision of this section;

5 “(ii) the rules, practices, or procedures of the
6 affiliated regional reliability entity no longer provide
7 for fair and impartial discharge of its implementa-
8 tion or enforcement responsibilities under the agree-
9 ment;

10 “(iii) the geographic boundary of a transmission
11 entity approved by the Commission is not wholly
12 within the boundary of an affiliated regional reli-
13 ability entity and such difference is inconsistent with
14 the effective and efficient implementation and ad-
15 ministration of bulk-power system reliability; or

16 “(iv) the agreement is inconsistent with another
17 delegation agreement as a result of actions taken
18 under paragraph (4) of this subsection.

19 “(B) Following an order of the Commission issued
20 under subparagraph (A), the Commission may suspend
21 the affected agreement if the electric reliability organiza-
22 tion or the affiliated regional reliability entity does not
23 propose an appropriate and timely modification. If the
24 agreement is suspended, the electric reliability organiza-
25 tion shall assume the previously delegated responsibilities.

1 The Commission shall allow the electric reliability organi-
2 zation and the affiliated regional reliability entity an op-
3 portunity to appeal the suspension.

4 “(i) ORGANIZATION MEMBERSHIP.—Every system
5 operator shall be required to be a member of the electric
6 reliability organization and shall be required also to be a
7 member of any affiliated regional reliability entity oper-
8 ating under an agreement effective pursuant to subsection
9 (h) applicable to the region in which the system operator
10 operates or is responsible for the operation of bulk-power
11 system facilities.

12 “(j) INJUNCTIONS AND DISCIPLINARY ACTION.—(1)
13 Consistent with the range of actions approved by the Com-
14 mission under subsection (d)(4)(H), the electric reliability
15 organization may impose a penalty, limitation of activities,
16 functions, operations, or other disciplinary action the elec-
17 tric reliability organization finds appropriate against a
18 user of the bulk-power system if the electric reliability or-
19 ganization, after notice and an opportunity for interested
20 parties to be heard, issues a finding in writing that the
21 user of the bulk-power system has violated an organization
22 standard. The electric reliability organization shall imme-
23 diately notify the Commission of any disciplinary action
24 imposed with respect to an act or failure to act of a user
25 of the bulk-power system that affected or threatened to

1 affect bulk-power system facilities located in the United
2 States, and the sanctioned party shall have the right to
3 seek modification or rescission of such disciplinary action
4 by the Commission. If the organization finds it necessary
5 to prevent a serious threat to reliability, the organization
6 may seek injunctive relief in a Federal court in the district
7 in which the affected facilities are located.

8 “(2) A disciplinary action taken under paragraph (1)
9 may take effect not earlier than the 30th day after the
10 electric reliability organization files with the Commission
11 its written finding and record of proceedings before the
12 electric reliability organization and the Commission posts
13 its written finding, unless the Commission, on its own mo-
14 tion or upon application by the user of the bulk-power sys-
15 tem which is the subject of the action, suspends the action.
16 The action shall remain in effect or remain suspended un-
17 less and until the Commission, after notice and oppor-
18 tunity for hearing, affirms, sets aside, modifies, or rein-
19 states the action, but the Commission shall conduct such
20 hearing under procedures established to ensure expedited
21 consideration of the action taken.

22 “(3) The Commission, on its own motion, may order
23 compliance with an organization standard and may impose
24 a penalty, limitation of activities, functions, or operations,
25 or take such other disciplinary action as the Commission

1 finds appropriate, against a user of the bulk-power system
2 with respect to actions affecting or threatening to affect
3 bulk-power system facilities located in the United States
4 if the Commission finds, after notice and opportunity for
5 a hearing, that the user of the bulk-power system has vio-
6 lated or threatens to violate an organization standard.

7 “(4) The Commission may take such action as is nec-
8 essary against the electric reliability organization or an af-
9 filiated regional reliability entity to assure compliance with
10 an organization standard, or any Commission order affect-
11 ing the electric reliability organization or an affiliated re-
12 gional reliability entity.

13 “(k) RELIABILITY REPORTS.—The electric reliability
14 organization shall conduct periodic assessments of the reli-
15 ability and adequacy of the interconnected bulk-power sys-
16 tem in North America and shall report annually to the
17 Secretary of Energy and the Commission its findings and
18 recommendations for monitoring or improving system reli-
19 ability and adequacy.

20 “(l) ASSESSMENT AND RECOVERY OF CERTAIN
21 COSTS.—The reasonable costs of the electric reliability or-
22 ganization, and the reasonable costs of each affiliated re-
23 gional reliability entity that are related to implementation
24 and enforcement of organization standards or other re-
25 quirements contained in a delegation agreement approved

1 under subsection (h), shall be assessed by the electric reli-
2 ability organization and each affiliated regional reliability
3 entity, respectively, taking into account the relationship of
4 costs to each region and based on an allocation that re-
5 flects an equitable sharing of the costs among all endusers.
6 The Commission shall provide by rule for the review of
7 such costs and allocations, pursuant to the standards in
8 this subsection and subsection (d)(4)(F).”.

9 (b) ENFORCEMENT.—Sections 316 and 316A of the
10 Federal Power Act are each amended by striking “or 214”
11 each place it appears and inserting “214, or 215”.

12 **SEC. 3. APPLICATION OF ANTITRUST LAWS.**

13 Notwithstanding any other provision of law, each of
14 the following activities are rebuttably presumed to be in
15 compliance with the antitrust laws of the United States:

16 (1) Activities undertaken by the electric reli-
17 ability organization under section 215 of the Federal
18 Power Act or affiliated regional reliability entity op-
19 erating under an agreement in effect under section
20 215(h) of such Act.

21 (2) Activities of a member of the electric reli-
22 ability organization or affiliated regional reliability
23 entity in pursuit of organization objectives under
24 section 215 of the Federal Power Act undertaken in
25 good faith under the rules of the organization.

- 1 Primary jurisdiction, and immunities and other affirma-
- 2 tive defenses, shall be available to the extent otherwise ap-
- 3 plicable.

