

106TH CONGRESS
1ST SESSION

H. R. 2786

To provide for expansion of electricity transmission networks in order to support competitive electricity markets and to bring the benefits of less regulation of such markets to the public, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 5, 1999

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

A BILL

To provide for expansion of electricity transmission networks in order to support competitive electricity markets and to bring the benefits of less regulation of such markets to the public, 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 “Interstate Trans-
5 mission Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

1 (1) Transmission networks are the backbone of
2 competitive power markets and increased interstate
3 commerce in electricity.

4 (2) To support competitive power markets and
5 to bring the benefits of less regulation of such mar-
6 kets to transmission customers, consumers, busi-
7 nesses, and the public, both today and in the future,
8 transmission networks must be expanded, enhanced,
9 and improved.

10 (3) The expansion, enhancement, and improve-
11 ment of transmission facilities also are necessary to
12 maintain and improve reliability of electric service.

13 (4) The regulation of transmission service must
14 be reformed.

15 **SEC. 3. CLARIFICATION OF JURISDICTION.**

16 (a) DECLARATION OF POLICY.—Section 201(a) of
17 the Federal Power Act (16 U.S.C. 824(a)) is amended by
18 inserting after “transmission of electric energy in inter-
19 state commerce” the following: “, including the unbundled
20 transmission of electric energy sold at retail,”.

21 (b) APPLICATION OF PART.—Section 201(b)(1) of
22 the Federal Power Act (16 U.S.C. 824(b)(1)) is amended
23 by—

24 (1) inserting after “the transmission of electric
25 energy in interstate commerce” the following: “, in-

1 including the unbundled transmission of electric en-
2 ergy sold at retail,”; and

3 (2) adding at the end of subsection (b) the fol-
4 lowing new paragraph:

5 “(3) After consulting with the appropriate
6 State regulatory authorities, the Commission shall
7 determine by rule or order which facilities used for
8 the transmission and delivery of electric energy are
9 used for transmission in interstate commerce subject
10 to the jurisdiction of the Commission under this
11 part, and which are used for local distribution sub-
12 ject to State jurisdiction.”.

13 (c) DEFINITION OF INTERSTATE COMMERCE.—Sec-
14 tion 201(c) of the Federal Power Act (16 U.S.C. 824(c))
15 is amended after “outside thereof” by inserting “(including
16 consumption in a foreign country)”.

17 (d) DEFINITIONS OF TYPES OF SALES.—Section
18 201(d) of the Federal Power Act (16 U.S.C. 824(d)) is
19 amended by—

20 (1) inserting “(1)” after the subsection designa-
21 tion; and

22 (2) adding at the end the following:

23 “(2) The term ‘bundled retail sale of electric energy’
24 means the sale of electric energy to an ultimate consumer

1 in which the generation and transmission service are not
 2 sold separately.

3 “(3) The term ‘unbundled local distribution service’
 4 means the delivery of electric energy to an ultimate con-
 5 sumer if—

6 “(A) the electric energy and the service of deliv-
 7 ering it are sold separately; and

8 “(B) the delivery uses facilities for local dis-
 9 tribution as determined by the Commission under
 10 subsection (b)(3).

11 “(4) The term ‘unbundled transmission of electric en-
 12 ergy sold at retail’ means the transmission of electric en-
 13 ergy to an ultimate consumer if—

14 “(A) the electric energy and the service of
 15 transmitting it are sold separately, and

16 “(B) the transmission uses facilities for trans-
 17 mission in interstate commerce as determined by the
 18 Commission under subsection (b)(3).”.

19 (e) DEFINITION OF PUBLIC UTILITY.—Section
 20 201(e) of the Federal Power Act (16 U.S.C. 824(e)) is
 21 amended to read as follows:

22 “(e) The term ‘public utility’, when used in this part
 23 or in the part next following means—

24 “(1) any person who owns or operates facilities
 25 subject to the jurisdiction of the Commission under

1 this part (other than facilities subject to such juris-
2 diction solely by reason of section 210, 211, or 212);
3 and

4 “(2) any transmitting utility that is not a pub-
5 lic utility under paragraph (1), but only with respect
6 to determining, fixing, and otherwise regulating the
7 rates, terms, and conditions for the transmission of
8 electric energy under this part.”.

9 (f) APPLICATION OF PART TO GOVERNMENT UTILI-
10 TIES.—Section 201(f) of the Federal Power Act (16
11 U.S.C. 824(f)) is amended by striking “No provision” and
12 inserting in lieu thereof “Except as provided in subsection
13 (e)(2) and section 3(23), no provision”.

14 **SEC. 4. DISPOSITION OF PROPERTY.**

15 Section 203 of the Federal Power Act (16 U.S.C.
16 824b) is repealed.

17 **SEC. 5. ECONOMICALLY EFFICIENT TRANSMISSION SERV-**

18 **ICE AND EXPANSION OF TRANSMISSION NET-**

19 **WORKS.**

20 Part II of the Federal Power Act is amended by add-
21 ing at the end thereof the following new section:

1 **“SEC. 215. STANDARDS FOR ESTABLISHING RATES,**
2 **CHARGES, TERMS, AND CONDITIONS FOR**
3 **TRANSMISSION SERVICE.**

4 “(a) RECOVERY OF COSTS.—In reviewing rates,
5 charges, terms, and conditions for transmission services
6 under this Act, the Commission shall permit a transmit-
7 ting utility to recover all of the costs incurred by the utility
8 in connection with the transmission services and necessary
9 associated services, including, but not limited to, the costs
10 of any enlargement of transmission facilities.

11 “(b) CONSIDERATION OF COST AND BENEFIT.—In
12 reviewing the rates, charges, terms, and conditions of
13 transmission services that are provided by a regional
14 transmission organization and that make use of facilities
15 constructed after the date of enactment of this section,
16 the Commission shall take into account the incremental
17 cost and the benefit to interconnected transmission sys-
18 tems of such facilities.

19 “(c) CERTAIN REQUIREMENTS.—Rates, charges,
20 terms and conditions established pursuant to subsections
21 (a) and (b) shall—

22 “(1) promote the economically efficient trans-
23 mission of electricity, the expansion of transmission
24 networks, the introduction of new transmission tech-
25 nologies, and the provision of transmission services
26 by regional transmission organizations;

1 “(2) prevent the shifting of costs to the rates
2 for services outside the jurisdiction of the Commis-
3 sion; and

4 “(3) be just and reasonable and not unduly dis-
5 criminatory or preferential.

6 “(d) VOLUNTARY INNOVATIVE PRICING POLICIES.—
7 Notwithstanding subsection (a) of this section, the Com-
8 mission shall encourage innovative pricing policies volun-
9 tarily filed by transmitting utilities. Innovative pricing
10 policies include policies that—

11 “(1) provide incentives to transmitting utilities
12 to promote the voluntary participation in and forma-
13 tion of regional transmission organizations, without
14 having the effect of forcing transmitting utilities to
15 join regional transmission organizations and extend
16 such incentives to transmitting utilities that already
17 have formed a regional transmission organization;

18 “(2) limit the charging of multiple rates for
19 transmission service over the transmission facilities
20 operated by the regional transmission organization,
21 provided, however, that a reasonable transition
22 mechanism or period may be used before eliminating
23 such rates;

1 “(3) minimize the shifting of costs among exist-
2 ing customers of the transmitting utilities within the
3 regional transmission organization;

4 “(4) encourage the efficient and reliable oper-
5 ation of the transmission grid and supply of trans-
6 mission services through congestion management,
7 performance-based or incentive ratemaking, and
8 other measures; and

9 “(5) encourage efficient and adequate invest-
10 ment in and expansion of the transmission facilities
11 owned or controlled by the regional transmission or-
12 ganization.

13 “(e) NEGOTIATED RATES.—Notwithstanding sub-
14 section (a) of this section, the Commission may permit the
15 charging of negotiated rates for transmission services
16 without regard to costs whenever an individual company
17 or companies are willing to pay such negotiated rates, pro-
18 vided, however, that such costs shall not be recovered from
19 other transmission customers.

20 “(f) EFFECTIVE COMPETITION.—Notwithstanding
21 subsection (a) of this section, in reviewing rates, charges,
22 terms, and conditions for transmission rates under this
23 Act, the Commission may permit the recovery of market-
24 based rates for transmission services where it finds that
25 relevant geographic and product markets for transmission

1 services or for delivered wholesale power are subject to ef-
 2 fective competition.

3 “(g) RULEMAKING.—Within 180 days after enact-
 4 ment of this section, the Commission shall establish by
 5 rule definitions and standards that it shall determine are
 6 necessary to give effect to subsections (d) and (e) of this
 7 section. Within 2 years of enactment of this section, the
 8 Commission shall establish by rule definitions and stand-
 9 ards that it shall determine are required to give effect to
 10 subsection (f) of this section.”.

11 **SEC. 6. ELECTRIC RELIABILITY STANDARDS.**

12 Part II of the Federal Power Act is amended by add-
 13 ing at the end thereof the following new section:

14 **“SEC. 216. ELECTRIC RELIABILITY STANDARDS.**

15 “(a) POLICIES AND STANDARDS.—A transmitting
 16 utility may require its transmission customers and any
 17 other transmitting utility with which it is either directly
 18 or indirectly interconnected to observe, as a condition of
 19 receiving transmission service, policies, or standards duly
 20 adopted by an electric reliability organization approved by
 21 the Commission. A transmitting utility may require its
 22 transmission customers and any other transmitting utility
 23 to which it is either directly or indirectly interconnected
 24 to observe, as a condition of receiving transmission service,

1 policies, or standards duly adopted by a regional affiliate
 2 of such electric reliability organization.

3 “(b) COMMISSION AUTHORITY.—Whenever the Com-
 4 mission, after a hearing had upon its own motion or upon
 5 complaint, shall find that any policy or standard adopted
 6 by an electric reliability organization approved by the
 7 Commission, or by any affiliate of such electric reliability
 8 organization, or the application of such policy or standard
 9 by a transmitting utility, is unjust, unreasonable, unduly
 10 discriminatory or preferential, the Commission may dis-
 11 approve, and prohibit the application of, such policy or
 12 standard, and shall remand the matter to the electric reli-
 13 ability organization for further consideration.”.

14 **SEC. 7. PROMOTION OF VOLUNTARY DEVELOPMENT OF RE-**
 15 **GIONAL TRANSMISSION ORGANIZATIONS.**

16 Part II of the Federal Power Act is amended by in-
 17 serting at the end thereof the following new section:

18 **“SEC. 217. PROMOTION OF VOLUNTARY DEVELOPMENT OF**
 19 **REGIONAL TRANSMISSION ORGANIZATIONS.**

20 “(a) IN GENERAL.—The Commission may approve
 21 and may encourage the formation of regional transmission
 22 organizations for the purpose of enhancing the trans-
 23 mission of electric energy in interstate commerce. Among
 24 options for the formation of regional transmission organi-
 25 zations, the Commission shall prefer those in which—

1 “(1) participation in the regional transmission
2 organization by transmitting utilities is voluntary;

3 “(2) the form, structure, and operating entity
4 of the regional transmission organization are ap-
5 proved of by participating transmitting utilities; and

6 “(3) market incentives exist to promote invest-
7 ment for expansion of transmission facilities and for
8 the introduction of new transmission technologies
9 within the territory of the regional transmission or-
10 ganization.

11 “(b) CONDITIONS.—No order issued under this Act
12 shall be conditioned upon or require a transmitting utility
13 to transfer operational control of jurisdictional facilities
14 to an independent system operator or other regional trans-
15 mission organization.

16 “(c) COMPLAINT.—In addition to any other rights or
17 remedies it may have under this Act, any entity serving
18 electric load that is denied services by a regional trans-
19 mission organization that the regional transmission orga-
20 nization makes available to other load serving entities shall
21 be entitled to file a complaint with the Commission con-
22 cerning the denial of such services. If the Commission
23 shall find, after an evidentiary hearing on the record, that
24 the denial of services complained of was unjust, unreason-
25 able, unduly discriminatory or preferential, or contrary to

1 the public interest, the Commission may order the provi-
2 sion of such services at rates and on terms and conditions
3 that shall be in accordance with section 215 of this Act.”.

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