

108TH CONGRESS
1ST SESSION

S. 1754

To enhance national security by improving the reliability of the U.S. electricity transmission grid, to ensure efficient, reliable and affordable energy to American consumers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2003

Mr. JEFFORDS (for himself, Mr. KENNEDY, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To enhance national security by improving the reliability of the U.S. electricity transmission grid, to ensure efficient, reliable and affordable energy to American consumers, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Electric Reliability Security Act of 2003”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RELIABILITY

- Sec. 101. Electric reliability standards.
- Sec. 102. Model electric utility workers code.
- Sec. 103. Interstate compacts on regional transmission planning.
- Sec. 104. Electricity outage investigation.
- Sec. 105. Study on reliability of United States energy grid.

TITLE II—EFFICIENCY

- Sec. 201. System benefits fund.
- Sec. 202. Electricity efficiency performance standard.
- Sec. 203. Appliance efficiency.
- Sec. 204. Loan guarantees.

TITLE III—ON-SITE GENERATION

- Sec. 301. Net metering.
- Sec. 302. Interconnection.
- Sec. 303. On-site generation for emergency facilities.

1 **TITLE I—RELIABILITY**2 **SEC. 101. ELECTRIC RELIABILITY STANDARDS.**

3 Part II of the Federal Power Act (16 U.S.C. 824 et
4 seq.) is amended by adding at the end the following:

5 **“SEC. 215. ELECTRIC RELIABILITY.**

6 “(a) DEFINITIONS.—In this section—

7 “(1) ‘bulk power system’ means the network of
8 interconnected transmission facilities and generating
9 facilities;

10 “(2) ‘electric reliability organization’ means a
11 self-regulating organization certified by the Commis-
12 sion under subsection (c) whose purpose is to pro-
13 mote the reliability of the bulk power system; and

14 “(3) ‘reliability standard’ means a requirement
15 to provide for reliable operation of the bulk power

1 system approved by the Commission under this sec-
2 tion.

3 “(b) JURISDICTION AND APPLICABILITY.—The Com-
4 mission shall have jurisdiction, within the United States,
5 over an electric reliability organization, any regional enti-
6 ties, and all users, owners and operators of the bulk power
7 system, including but not limited to the entities described
8 in section 201(f), for purposes of approving reliability
9 standards and enforcing compliance with this section. All
10 users, owners and operators of the bulk power system shall
11 comply with reliability standards that take effect under
12 this section.

13 “(c) CERTIFICATION.—

14 “(1) The Commission shall issue a final rule to
15 implement the requirements of this section not later
16 than 180 days after the date of enactment of this
17 section.

18 “(2) Following the issuance of a Commission
19 rule under paragraph (1), any person may submit an
20 application to the Commission for certification as an
21 electric reliability organization. The Commission
22 may certify an applicant if the Commission deter-
23 mines that the applicant—

24 “(A) has the ability to develop, and enforce
25 reliability standards that provide for an ade-

1 quate level of reliability of the bulk power sys-
2 tem; and

3 “(B) has established rules that—

4 “(i) assure the independence of the
5 applicant from the users and owners and
6 operators of the bulk power system while
7 assuring fair stakeholder representation in
8 the selection of its directors and balanced
9 decision making in any committee or sub-
10 ordinate organizational structure;

11 “(ii) allocate equitably dues, fees, and
12 other charges among users for all activities
13 under this section;

14 “(iii) provide fair and impartial proce-
15 dures for enforcement of reliability stand-
16 ards through imposition of penalties (in-
17 cluding limitations on activities, functions,
18 or operations, or other appropriate sanc-
19 tions) and

20 “(iv) provide for reasonable notice and
21 opportunity for public comment, due proc-
22 ess, openness, and balance of interests in
23 developing reliability standards and other-
24 wise exercising its duties.

1 “(3) If the Commission receives 2 or more time-
2 ly applications that satisfy the requirements of this
3 subsection, the Commission shall approve only the
4 application the Commission concludes will best im-
5 plement the provisions of this section.

6 “(d) RELIABILITY STANDARDS.—

7 “(1) An electric reliability organization shall file
8 a proposed reliability standard or modification to a
9 reliability standard with the Commission.

10 “(2) The Commission may approve a proposed
11 reliability standard or modification to a reliability
12 standard if it determines that the standard is just,
13 reasonable, not unduly discriminatory or pref-
14 erential, and in the public interest. The Commission
15 shall give due weight to the technical expertise of the
16 electric reliability organization with respect to the
17 content of a proposed standard or modification to a
18 reliability standard, but shall not defer with respect
19 to its effect on competition.

20 “(3) The electric reliability organization and the
21 Commission shall rebuttably presume that a pro-
22 posal from a regional entity organized on an inter-
23 connection-wide basis for a reliability standard or
24 modification to a reliability standard to be applicable
25 on an interconnection-wide basis is just, reasonable,

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

3 “(4) The Commission shall remand to the elec-
4 tric reliability organization for further consideration
5 a proposed reliability standard or a modification to
6 a reliability standard that the Commission dis-
7 approves in whole or in part.

8 “(5) The Commission, upon its own motion or
9 upon complaint, may order an electric reliability or-
10 ganization to submit to the Commission a proposed
11 reliability standard or a modification to a reliability
12 standard that addresses a specific matter if the
13 Commission considers such a new or modified reli-
14 ability standard appropriate to carry out this sec-
15 tion.

16 “(e) ENFORCEMENT.—

17 “(1) An electric reliability organization may im-
18 pose a penalty on a user or owner or operator of the
19 bulk power system if the electric reliability organiza-
20 tion, after notice and an opportunity for a hearing—

21 “(A) finds that the user or owner or oper-
22 ator of the bulk power system has violated a re-
23 liability standard approved by the Commission
24 under subsection (d); and

1 “(B) files notice with the Commission,
2 which shall affirm, set aside, or modify the ac-
3 tion.

4 “(2) On its own motion or upon complaint, the
5 Commission may order compliance with a reliability
6 standard and may impose a penalty against a user
7 or owner or operator of the bulk power system if the
8 Commission finds, after notice and opportunity for
9 a hearing, that the user or owner or operator of the
10 bulk power system has violated or threatens to vio-
11 late a reliability standard.

12 “(3) The Commission shall establish regulations
13 authorizing the electric reliability organization to
14 enter into an agreement to delegate authority to a
15 regional entity for the purpose of proposing and en-
16 forcing reliability standards (including related activi-
17 ties) if the regional entity satisfies the provisions of
18 subparagraphs (A) and (B) of subsection (c)(2) and
19 the agreement promotes effective and efficient ad-
20 ministration of bulk power system reliability. The
21 Commission may modify such delegation. The elec-
22 tric reliability organization and the Commission shall
23 rebuttably presume that a proposal for delegation to
24 a regional entity organized on a interconnection-wide
25 basis promotes effective and efficient administration

1 of bulk power system reliability and should be ap-
2 proved. Such regulation may provide that the Com-
3 mission may assign the electric reliability organiza-
4 tion's authority to enforce reliability standards di-
5 rectly to a regional entity consistent with the re-
6 quirements of this paragraph.

7 “(4) The Commission may take such action as
8 is necessary or appropriate against the electric reli-
9 ability organization or a regional entity to ensure
10 compliance with a reliability standard or any Com-
11 mission order affecting the electric reliability organi-
12 zation or a regional entity.

13 “(f) CHANGES IN ELECTRICITY RELIABILITY ORGA-
14 NIZATION RULES.—An electric reliability organization
15 shall file with the Commission for approval any proposed
16 rule or proposed rule change, accompanied by an expla-
17 nation of its basis and purpose. The Commission, upon
18 its own motion or complaint, may propose a change to the
19 rules of the electric reliability organization. A proposed
20 rule or proposed rule change shall take effect upon a find-
21 ing by the Commission, after notice and opportunity for
22 comment, that the change is just, reasonable, not unduly
23 discriminatory or preferential, is in the public interest, and
24 satisfies the requirements of subsection (c)(2).

25 “(g) COORDINATION WITH CANADA AND MEXICO.—

1 “(1) The electric reliability organization shall
2 take all appropriate steps to gain recognition in
3 Canada and Mexico.

4 “(2) The President shall use his best efforts to
5 enter into international agreements with the govern-
6 ments of Canada and Mexico to provide for effective
7 compliance with reliability standards and the effec-
8 tiveness of the electric reliability organization in the
9 United States and Canada or Mexico.

10 “(h) RELIABILITY REPORTS.—The electric reliability
11 organization shall conduct periodic assessments of the reli-
12 ability and adequacy of the interconnected bulk power sys-
13 tem in North America.

14 “(i) SAVINGS PROVISIONS.—

15 “(1) The electric reliability organization shall
16 have authority to develop and enforce compliance
17 with standards for the reliable operation of only the
18 bulk power system.

19 “(2) This section does not provide the electric
20 reliability organization or the Commission with au-
21 thority to order the construction of additional gen-
22 eration or transmission capacity or to set and en-
23 force compliance with standards for adequacy or
24 safety of electric facilities or services.

1 “(3) Nothing in this section shall be construed
2 to preempt any authority of any State to take action
3 to ensure the safety, adequacy, and reliability of
4 electric service within that State, as long as such ac-
5 tion is not inconsistent with any reliability standard
6 established under this section.

7 “(4) Not later than 90 days after the date of
8 the application of the electric reliability organization
9 or other affected party, and after notice and oppor-
10 tunity for comment, the Commission shall issue a
11 final order determining whether a State action is in-
12 consistent with a reliability standard, taking into
13 consideration any recommendation of the electric re-
14 liability organization.

15 “(5) The Commission, after consultation with
16 the electric reliability organization, may stay the ef-
17 fectiveness of any State action, pending the Commis-
18 sion’s issuance of a final order.

19 “(j) APPLICATION OF ANTITRUST LAWS.—

20 “(1) To the extent undertaken to develop, im-
21 plement, or enforce a reliability standard, each of
22 the following activities shall not, in any action under
23 the antitrust laws, be deemed illegal per se:

24 “(A) Activities undertaken by an electric
25 reliability organization under this section.

1 “(B) Activities of a user or owner or oper-
2 ator of the bulk power system undertaken in
3 good faith under the rules of an electric reli-
4 ability organization.

5 “(2) In any action under the antitrust laws, an
6 activity described in paragraph (1) shall be judged
7 on the basis of its reasonableness, taking into ac-
8 count all relevant factors affecting competition and
9 reliability.

10 “(3) For purposes of this subsection, the term
11 ‘antitrust laws’ has the meaning given the term in
12 subsection (a) of the first section of the Clayton Act
13 (15 U.S.C. 12(a)), except that it includes section 5
14 of the Federal Trade Commission Act (15 U.S.C.
15 45) to the extent that section 5 applies to unfair
16 methods of competition.

17 “(k) REGIONAL ADVISORY BODIES.—The Commis-
18 sion shall establish a regional advisory body on the petition
19 of at least $\frac{2}{3}$ of the States within a region that have more
20 than $\frac{1}{2}$ of their electric load served within the region. A
21 regional advisory body shall be composed of one member
22 from each participating State in the region, appointed by
23 the Governor of each state, and may include representa-
24 tives of agencies, States, and provinces outside the United
25 States. A regional advisory body may provide advice to the

1 electric reliability organization, a regional reliability enti-
 2 ty, or the Commission regarding the governance of an ex-
 3 isting or proposed regional reliability entity within the
 4 same region, whether a standard proposed to apply within
 5 the region is just, reasonable, not unduly discriminatory
 6 or preferential, and in the public interest, whether fees
 7 proposed to be assessed within the region are just, reason-
 8 able, not unduly discriminatory or preferential, and in the
 9 public interest and any other responsibilities requested by
 10 the Commission. The Commission may give deference to
 11 the advice of any such regional advisory body if that body
 12 is organized on an interconnection-wide basis.

13 “(l) APPLICATION TO ALASKA AND HAWAII.—The
 14 provisions of this section apply only to the contiguous 48
 15 states.”.

16 **SEC. 102. MODEL ELECTRIC UTILITY WORKERS CODE.**

17 Subtitle B of the Public Utility Regulatory Policies
 18 Act of 1978 (16 U.S.C. 2621 et seq.) is amended by add-
 19 ing at the end the following:

20 **“SEC. 118. MODEL CODE FOR ELECTRIC UTILITY WORKERS.**

21 “(a) IN GENERAL.—The Secretary shall develop by
 22 rule and circulate among the States for their consideration
 23 a model code containing standards for electric facility
 24 workers to ensure electric facility safety and reliability.

1 “(b) CONSULTATION.—In developing these stand-
2 ards, the Secretary shall consult with all interested par-
3 ties, including representatives of electric facility workers.

4 “(c) NOT AFFECTING OCCUPATIONAL SAFETY AND
5 HEALTH.—In issuing a model code under this section, the
6 Secretary shall not, for purposes of section 4 of the Occu-
7 pational Safety and Health Act of 1970 (29 U.S.C. 653)
8 be deemed to be exercising statutory authority to prescribe
9 or enforce standards or regulations affecting occupational
10 safety and health.”.

11 **SEC. 103. INTERSTATE COMPACTS ON REGIONAL TRANS-**
12 **MISSION PLANNING.**

13 Part II of the Federal Power Act (16 U.S.C. 824 et
14 seq.) (as amended by section 101) is amended by adding
15 at the end the following:

16 **“SEC. 216. INTERSTATE COMPACTS ON REGIONAL TRANS-**
17 **MISSION PLANNING.**

18 “(a) CONSENT OF CONGRESS.—The consent of Con-
19 gress is given for an agreement to establish a regional
20 transmission planning agency if the Commission deter-
21 mines that the agreement would—

22 “(1) facilitate coordination among the States
23 within a particular region with regard to the plan-
24 ning of future transmission, generation, and dis-
25 tribution facilities;

1 “(2) carry out State electric facility siting re-
2 sponsibilities more effectively;

3 “(3) meet the other requirements of this section
4 and rules prescribed by the Commission under this
5 section; and

6 “(4) otherwise be consistent with the public in-
7 terest.

8 “(b) AUTHORITY TO CARRY OUT AGREEMENT.—

9 “(1) If the Commission determines that an
10 agreement meets the requirements of subsection (a),
11 the agency established under the agreement has the
12 authority necessary or appropriate to carry out the
13 agreement. This includes authority with respect to
14 matters otherwise within the jurisdiction of the
15 Commission, if expressly provided for in the agree-
16 ment and approved by the Commission.

17 “(2) The Commission’s determination under
18 this section may be subject to any terms or condi-
19 tions the Commission determines are necessary to
20 ensure that the agreement is in the public interest.

21 “(c) CRITERIA.—

22 “(1) The Commission shall prescribe—

23 “(A) criteria for determining whether a re-
24 gional transmission planning agreement meets
25 subsection (a); and

1 “(B) standards for the administration of a
2 regional transmission planning agency estab-
3 lished under the agreement.

4 “(2) The criteria shall provide that, in order to
5 meet subsection (a)—

6 “(A) a regional transmission planning
7 agency must operate within a region that in-
8 cludes all tribal governments and all States and
9 that are a party to the agreement;

10 “(B) a regional transmission planning
11 agency must be composed of one or more mem-
12 bers from each State and tribal government
13 that is a party to the agreement;

14 “(C) each participating State and tribal
15 government must vest in the regional trans-
16 mission planning agency the authority nec-
17 essary to carry out the agreement and this sec-
18 tion; and

19 “(D) the agency must follow workable and
20 fair procedures in making its respect to matters
21 covered by this agreement, including a require-
22 ment that all decisions of the agency be made
23 by majority vote (or majority weighted votes) of
24 the members present and voting.

1 “(3) The criteria may include any other re-
2 quirement for meeting subsection (a) that the Com-
3 mission determines is necessary to ensure that the
4 regional transmission planning agency’s organiza-
5 tion, practices, and procedures are sufficient to carry
6 out this section and the rules issued under it.

7 “(d) TERMINATION OF APPROVAL.—The Commis-
8 sion, after notice and opportunity for comment, may ter-
9 minate the approval of an agreement under this section
10 at any time if it determines that the regional transmission
11 planning agency fails to comply with this section or Com-
12 mission prescriptions under subsection (c) or that the
13 agreement is contrary to the public interest.

14 “(e) REVIEW.—Section 313 applies to a rehearing be-
15 fore a regional transmission planning agency and judicial
16 review of any action of a regional transmission planning
17 agency. For this purpose, when section 313 refers to
18 ‘Commission’ substitute ‘regional transmission planning
19 agency’ and when section 313(b) refers to ‘licensee or pub-
20 lic utility’ substitute ‘entity’.”.

21 **SEC. 104. ELECTRICITY OUTAGE INVESTIGATION.**

22 Part III of the Federal Power Act (16 U.S.C. 824)
23 is amended—

24 (1) by redesignating sections 320 and 321 (16
25 U.S.C. 825r, 791a) as 321 and 322 respectively; and

1 (2) by inserting after section 319 (16 U.S.C.
2 825q) the following:

3 **“SEC. 320. ELECTRICITY OUTAGE INVESTIGATION BOARD.**

4 “(a) ESTABLISHMENT.—There is established an
5 Electricity Outage Investigation Board that shall be an
6 independent establishment within the Executive Branch.

7 “(b) MEMBERSHIP.—The Board shall consist of 7
8 members and shall include—

9 “(1) the Secretary of Energy or his or her des-
10 ignee;

11 “(2) the Chairman of the Federal Regulatory
12 Commission or his or her designee;

13 “(3) a representative of the National Academy
14 of Sciences appointed by the President; a represent-
15 ative appointed by the majority leader of the Senate;
16 a representative appointed by the minority leader of
17 the Senate; a representative appointed by the major-
18 ity leader of the House of Representatives; and a
19 representative appointed by the minority leader of
20 the House of Representatives. Each such appointee
21 shall demonstrate relevant expertise in the field of
22 electricity generation, transmission and distribution,
23 and such other expertise as will best assist in car-
24 rying out the duties of the Board.

1 “(c) TERMS.—The Secretary of Energy and the
2 Chairman of the Federal Regulatory Commission shall be
3 permanent members. The remaining members shall each
4 serve for a term of 3 years.

5 “(d) DUTIES.—The Board shall—

6 “(1) upon request by Congress or by the Presi-
7 dent investigate a major bulk-power system failure
8 in the United States to determine the causes of the
9 failure;

10 “(2) report expeditiously to the Congress and to
11 the President the results of the investigation; and

12 “(3) recommend to the Congress and the Presi-
13 dent actions to minimize the possibility of future
14 bulk-power system failure.

15 “(e) COMPENSATION.—Each member of the Board
16 shall be paid at the rate payable for level III of the Execu-
17 tive Schedule for each day (including travel time) such
18 member is engaged in the work of the Board. Each mem-
19 ber of the Board may receive travel expenses, including
20 per diem in lieu of subsistence, in the same manner as
21 is permitted under section 5702 and 5703 of title 5,
22 United States Code.”.

1 **SEC. 105. STUDY ON RELIABILITY OF U.S. ELECTRICITY**
2 **GRID.**

3 (a) **STUDY ON RELIABILITY.**—Within 45 days after
4 enactment of this Act, the Secretary of Energy shall con-
5 tract with the National Academy of Sciences to conduct
6 a study on the reliability of the U.S. electricity grid. The
7 study shall examine the effectiveness of the current U.S.
8 electricity transmission and distribution system at pro-
9 viding efficient, secure and affordable power to U.S. con-
10 sumers.

11 (b) **CONTENTS.**—The study shall include an analysis
12 of—

13 (1) vulnerability of the transmission and dis-
14 tribution system to disruption by natural, mechan-
15 ical or human causes including sabotage;

16 (2) the most efficient and cost-effective solu-
17 tions for dealing with vulnerabilities or other prob-
18 lems of the U.S. electricity transmission and dis-
19 tribution system, including a comparison of invest-
20 ments in—

21 (A) efficiency;

22 (B) distributed generation;

23 (C) technical advances in software and
24 other devices to improve the efficiency and reli-
25 ability of the grid;

26 (D) new power line construction; and

1 (E) any other relevant matters.

2 (c) REPORT.—The contract shall provide that within
3 six months of entering into the contract, the National
4 Academy of Sciences shall submit a report to the Presi-
5 dent and Congress detailing findings and recommenda-
6 tions of the study.

7 **TITLE II—EFFICIENCY**

8 **SEC. 201. SYSTEM BENEFITS FUND.**

9 (a) DEFINITIONS.—In this section:

10 (1) ADMINISTRATOR.—The term “Adminis-
11 trator” means the Administrator of the Environ-
12 mental Protection Agency.

13 (2) BOARD.—The term “Board” means the
14 Board established under subsection (b).

15 (3) COMMISSION.—The term “Commission”
16 means the Federal Energy Regulatory Commission.

17 (4) FUND.—The term “Fund” means the Sys-
18 tem Benefits Trust Fund established under sub-
19 section (c).

20 (5) RENEWABLE ENERGY.—The term “renew-
21 able energy” means electricity generated from wind,
22 ocean energy, organic waste (excluding incinerated
23 municipal solid waste), or biomass (including anaer-
24 obic digestion from farm systems and landfill gas re-
25 covery) or a geothermal, solar thermal, or photo-

1 voltaic source. For purposes of this paragraph, a
2 farm system is an electric generating facility that
3 generates electric energy from the anaerobic diges-
4 tion of agricultural waste produced by farming that
5 is located on the farm where substantially all of the
6 waste used is produced.

7 (6) SECRETARY.—The term “Secretary” means
8 the Secretary of Energy.

9 (b) BOARD.—

10 (1) ESTABLISHMENT.—The Secretary shall es-
11 tablish a System Benefits Trust Fund Board to
12 carry out the functions and responsibilities described
13 in this section.

14 (2) MEMBERSHIP.—The Board shall be com-
15 posed of—

16 (A) 1 representative of the Federal Energy
17 Regulatory Commission appointed by the Fed-
18 eral Energy Regulatory Commission;

19 (B) 2 representatives of the Secretary of
20 Energy appointed by the Secretary;

21 (C) 2 persons nominated by the National
22 Association of Regulatory Utility Commis-
23 sioners and appointed by the Secretary;

1 (D) 1 person nominated by the National
2 Association of State Utility Consumer Advo-
3 cates and appointed by the Secretary;

4 (E) 1 person nominated by the National
5 Association of State Energy Officials and ap-
6 pointed by the Secretary;

7 (F) 1 person nominated by the National
8 Energy Assistance Directors' Association and
9 appointed by the Secretary; and

10 (G) 1 representative of the Environmental
11 Protection Agency appointed by the Adminis-
12 trator of the Environmental Protection Agency.

13 (3) CHAIRPERSON.—The Secretary shall select
14 a member of the Board to serve as Chairperson of
15 the Board.

16 (c) ESTABLISHMENT OF FUND.—

17 (1) IN GENERAL.—The Board shall establish an
18 account or accounts at one or more financial institu-
19 tions, which account or accounts shall be known as
20 the System Benefits Trust Fund consisting of
21 amounts deposited in the fund under subsection (e).

22 (2) STATUS OF FUND.—The wires charges col-
23 lected under subsection (e) and deposited in the
24 Fund—

1 (A) shall not constitute funds of the
2 United States;

3 (B) shall be held in trust by the Board
4 solely for the purposes stated in subsection (d);
5 and

6 (C) shall not be available to meet any obli-
7 gations of the United States.

8 (d) USE OF FUND.—

9 (1) FUNDING OF STATE PROGRAMS.—Amounts
10 in the Fund shall be used by the Board to provide
11 matching funds to States and Indian tribes for the
12 support of State or tribal public benefits programs
13 relating to—

14 (A) energy conservation and efficiency;

15 (B) renewable energy sources;

16 (C) assisting low-income households in
17 meeting their home energy needs; or

18 (D) research and development in areas de-
19 scribed in subparagraphs (A) through (C).

20 (2) DISTRIBUTION.—

21 (A) IN GENERAL.—Except for amounts
22 needed to pay costs of the Board in carrying
23 out its duties under this section, the Board
24 shall distribute all amounts in the Fund to

1 States or Indian tribes to fund public benefits
2 programs under paragraph (1).

3 (B) FUND SHARE.—

4 (i) IN GENERAL.—Subject to clause
5 (iii), the Fund share of a public benefits
6 program funded under paragraph (1) shall
7 be 50 percent.

8 (ii) PROPORTIONATE REDUCTION.—
9 To the extent that the amount of matching
10 funds requested by States and Indian
11 tribes exceeds the maximum projected rev-
12 enues of the Fund, the matching funds dis-
13 tributed to the States and Indian tribes
14 shall be reduced by an amount that is pro-
15 portionate to each State's annual consump-
16 tion of electricity compared to the Nation's
17 aggregate annual consumption of elec-
18 tricity.

19 (iii) ADDITIONAL STATE OR INDIAN
20 TRIBE FUNDING.—A State or Indian tribe
21 may apply funds to public benefits pro-
22 grams in addition to the amount of funds
23 applied for the purpose of matching the
24 Fund share.

1 (3) PROGRAM CRITERIA.—The Board shall rec-
2 ommend eligibility criteria for public benefits pro-
3 grams funded under this section for approval by the
4 Secretary.

5 (4) APPLICATION.—Not later than August 1 of
6 each year beginning in 2004, a State or Indian tribe
7 seeking matching funds for the following fiscal year
8 shall file with the Board, in such forms as the Board
9 may require, an application—

10 (A) certifying that the funds will be used
11 for an eligible public benefits program;

12 (B) stating the amount of State or Indian
13 tribe funds earmarked for the program; and

14 (C) summarizing how System Benefit
15 Trust Fund funds from the previous calendar
16 year (if any) were spent by the State and what
17 the State accomplished as a result of these ex-
18 penditures.

19 (e) WIRES CHARGE.—

20 (1) DETERMINATION OF NEEDED FUNDING.—
21 Not later than September 1 of each year, the Board
22 shall determine and inform the Commission of the
23 aggregate amount of wires charges that will be nec-
24 essary to be paid into the Fund to pay matching

1 funds to States and Indian tribes and pay the oper-
2 ating costs of the Board in the following fiscal year.

3 (2) IMPOSITION OF WIRES CHARGE.—

4 (A) IN GENERAL.—Not later than Decem-
5 ber 15 of each year, the Commission shall im-
6 pose a nonbypassable, competitively neutral
7 wires charge, to be paid directly into the Fund
8 by the operator of the wire, on electricity car-
9 ried through the wire (measured as the elec-
10 tricity exits at the busbar at a generation facil-
11 ity, or, for electricity generated outside the
12 United States, at the point of delivery to the
13 wire operator's system) in interstate commerce.

14 (B) AMOUNT.—The wires charge shall be
15 set at a rate equal to the lesser of—

16 (i) 1.0 mills per kilowatt hour; or

17 (ii) a rate that is estimated to result
18 in the collection of an amount of wires
19 charges that is as nearly as possible equal
20 to the amount of needed funding deter-
21 mined under paragraph (1).

22 (3) DEPOSIT IN THE FUND.—The wires charge
23 shall be paid by the operator of the wire directly into
24 the Fund at the end of each month during the cal-

1 endar year for distribution by the Board under sub-
2 section (c).

3 (4) PENALTIES.—The Commission may assess
4 against a wire operator that fails to pay a wires
5 charge as required by this subsection a civil penalty
6 in an amount equal to not more than the amount of
7 the unpaid wires charge.

8 (f) AUDITING.—

9 (1) IN GENERAL.—The Fund shall be audited
10 annually by a firm of independent certified public
11 accountants in accordance with generally accepted
12 auditing standards.

13 (2) ACCESS TO RECORDS.—Representatives of
14 the Secretary and the Commission shall have access
15 to all books, accounts, reports, files, and other
16 records pertaining to the Fund as necessary to fa-
17 cilitate and verify the audit.

18 (3) REPORTS.—

19 (A) IN GENERAL.—A report on each audit
20 shall be submitted to the Secretary, the Com-
21 mission, and the Secretary of the Treasury, who
22 shall submit the report to the President and
23 Congress not later than 180 days after the
24 close of the fiscal year.

1 (B) REQUIREMENTS.—An audit report
2 shall—

3 (i) set forth the scope of the audit;

4 and

5 (ii) include—

6 (I) a statement of assets and li-
7 abilities, capital, and surplus or def-
8 icit;

9 (II) a surplus of deficit analysis;

10 (III) a statement of income and
11 expenses;

12 (IV) any other information that
13 may be considered necessary to keep
14 the President and Congress informed
15 of the operations and financial condi-
16 tion of the Fund; and

17 (V) any recommendations with
18 respect to the Fund that the Sec-
19 retary or the Commission may have.

20 **SEC. 202. ELECTRICITY EFFICIENCY PERFORMANCE**
21 **STANDARD.**

22 Title VI of the Public Utility Regulatory Policies Act
23 of 1978 (16 U.S.C. 2621 note) is amended by adding at
24 the end the following:

1 **“SEC. 609. FEDERAL ELECTRICITY EFFICIENCY PERFORM-**
 2 **ANCE STANDARD.**

3 “(a) IN GENERAL.—Each electric retail supplier shall
 4 implement energy efficiency and load reduction programs
 5 and measures to achieve verified improvements in energy
 6 efficiency and peak load reduction in retail customer facili-
 7 ties and the distribution systems that serve them.

8 “(b) POWER SAVINGS.—Such programs shall produce
 9 savings in total peak power demand and total electricity
 10 use by retail customers by an amount that is equal to or
 11 greater than the following percentages relative to the peak
 12 demand and electricity used in that year by the retail elec-
 13 tric supplier’s customers:

	Reduction in demand	Reduction in use
In calendar year 2004	1%	.75%
In calendar year 2005	2%	1.5%
In calendar year 2007	4%	3.0%
In calendar year 2009	6%	4.5%
In calendar year 2011	8%	6.0%
In calendar year 2013	10%	7.5%

14 “(c) BEGINNING DATE.—For purposes of this sec-
 15 tion, savings shall be counted only for measures installed
 16 after January 1, 2003.

17 “(d) RULEMAKING.—The Secretary of Energy is di-
 18 rected to establish, by rule, procedures and standards for
 19 counting and independently verifying energy and demand
 20 savings for purposes of enforcing the energy efficiency per-

1 formance standards imposed by this section. Such rule
2 shall also include procedures and a schedule for reporting
3 findings to the Department of Energy and for making
4 such reports available to the public. The Secretary shall
5 consult with the association representing the nation's pub-
6 lic utility regulators, and with the association representing
7 the nation's state energy officials in developing these pro-
8 cedures and standards. This rulemaking shall be com-
9 pleted no later than June 30, 2004.

10 “(e) REPORTING.—By June 30, 2006, and every two
11 years thereafter, each retail electric supplier shall file with
12 the state public utilities commission in each state in which
13 its supplies service to retail customers, a report dem-
14 onstrating that it has taken action to comply with the en-
15 ergy efficiency performance standards of this section.
16 These reports shall include independent verification of the
17 estimated savings pursuant to standards established by
18 the Secretary. A state public utilities commission may ac-
19 cept such report as filed, or may review and investigate
20 the accuracy of the report. Each state public utilities com-
21 mission shall make findings on any deficiencies relative to
22 the requirements in section 2, and shall create a remedial
23 order for the correction of any deficiencies that are found.

24 “(f) UTILITIES OUTSIDE STATE JURISDICTION.—
25 Electric retail suppliers not subject to the jurisdiction of

1 state public utilities commissions shall report to their gov-
2 erning bodies. Such reports shall include independent
3 verification of the estimated savings pursuant to standards
4 established by the Secretary.

5 “(g) PROGRAM PARTICIPATION.—Electric retail sup-
6 pliers may demonstrate satisfaction of this standard, in
7 whole or part, by savings achieved through participation
8 in statewide, regional, or national programs that can be
9 demonstrated to significantly improve the efficiency of
10 electric distribution and use. Verified efficiency savings re-
11 sulting from such programs may be assigned to each par-
12 ticipating retail supplier based upon their degree of par-
13 ticipation in such programs. Electric retail suppliers may
14 also purchase rights to extra savings achieved by other
15 electric retail suppliers, provided that the selling supplier
16 or another electric retail supplier does not also take credit
17 for those savings.

18 “(h) REMEDIES FOR FAILURE TO COMPLY.—In the
19 event that any retail electric supplier fails to achieve its
20 energy savings and/or load reduction target for a specific
21 year, any aggrieved party may enter suit and seek prompt
22 remedial action before a state public utilities commission
23 or an appropriate governing body in the case of electric
24 retail suppliers not subject to state public utility commis-
25 sion jurisdiction. The state public utilities commission or

1 other appropriate governing body shall have a maximum
2 of one year to craft a remedy. However, if a state public
3 utilities commission or other governing body certifies that
4 it has inadequate resources or authority to promptly re-
5 solve enforcement actions under this section, or fails to
6 take action within the time period specified above, enforce-
7 ment may be sought in Federal district court. If a commis-
8 sion or court determines that energy savings and/or load
9 reduction targets for a specific year have not been
10 achieved, the commission or court shall determine the
11 amount of the deficit and shall fashion an equitable rem-
12 edy to restore the lost savings as soon as practicable. Such
13 remedies may include a refund to retail electric customers
14 of an amount equal to the retail cost of the electricity con-
15 sumed due to the failure to reach the target, and the ap-
16 pointment of a special master to administer a bidding sys-
17 tem to procure the energy and demand savings equal to
18 125 percent of the deficit.

19 **SEC. 203. APPLIANCE EFFICIENCY.**

20 Section 325(d)(3) of the Energy Policy and Con-
21 servation Act (42 U.S.C. 6295(d)(3)) is amended by strik-
22 ing subparagraph (B) and inserting instead:

23 “(B) The Secretary shall publish a final rule no later
24 than January 1, 2007, to determine whether the stand-
25 ards in effect for central air conditioners and central air

1 conditioning heat pumps should be amended. Such rule
2 shall address both system annual energy use and peak
3 electric demand and may include more than one efficiency
4 descriptor. Such rule shall apply to products manufac-
5 tured on or after January 1, 2010.”.

6 **SEC. 204. LOAN GUARANTEES.**

7 (a) **AUTHORITY.**—The Secretary may guarantee not
8 more than 50 percent of the principal of any loan made
9 to a qualifying entity for eligible activities under this sec-
10 tion.

11 (b) **CONDITIONS.**—

12 (1) The Secretary shall not guarantee a loan
13 under this section unless—

14 (A) the guarantee is a qualifying entity;

15 (B) the guarantee has filed an application
16 with the Secretary;

17 (C) the project, activity, program or sys-
18 tem for which the loan is made is an eligible ac-
19 tivity; and

20 (D) the project, activity, program or sys-
21 tem for which the loan is made will significantly
22 enhance the reliability, security, efficiency and
23 cost-effectiveness of electricity generation,
24 transmission or distribution.

1 (2) The Secretary shall give priority to guaran-
2 teed loans under this section for eligible activities
3 which accomplish the objectives of this section in the
4 most environmentally beneficial manner.

5 (3) A loan guaranteed under this section shall
6 be made by a financial institution subject to the ex-
7 amination of the Secretary.

8 (c) RULES.—Not later than 1 year after enactment
9 of this section, the Secretary shall publish a final rule es-
10 tablishing guidelines for loan requirements under this sec-
11 tion. The rules shall establish—

12 (1) criteria for determining which entities shall
13 be considered qualifying entities eligible for loan
14 guarantees under this section;

15 (2) criteria for determining which projects, ac-
16 tivities, programs or systems shall be considered eli-
17 gible activities eligible for loan guarantees in accord-
18 ance with the purposes of this section;

19 (3) loan requirements including term, maximum
20 size, collateral requirements; and

21 (4) any other relevant features.

22 (d) LIMITATION ON SIZE.—The Secretary may make
23 commitments to guarantee loans only to the extent that
24 the total principal, any part of which is guaranteed, will
25 not exceed \$10,000,000,000.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated to the Secretary such
3 sums as may be necessary to cover the cost of loan guaran-
4 tees as defined by section 502(5) of the Federal Credit
5 Reform Act of 1990 (2. U.S.C. 661a(5)).

6 (f) DEFINITIONS.—In this section:

7 (1) The term “eligible activity” means—

8 (A) advanced technologies for high-effi-
9 ciency electricity transmission control and oper-
10 ation, including high-efficiency power elec-
11 tronics technologies (including software-con-
12 trolled computer chips and sensors to diagnose
13 trouble spots and re-route power into appro-
14 priate areas), high-efficiency electricity storage
15 systems, and high-efficiency transmission wire
16 or transmission cable system;

17 (B) distributed generation systems fueled
18 solely by—

19 (i) solar, wind, biomass, geothermal,
20 or ocean energy;

21 (ii) landfill gas;

22 (iii) natural gas systems utilizing best
23 available control technology;

24 (iv) fuel cells; or

25 (v) any combination of the above;

1 (C) combined heat and power systems; and

2 (D) energy efficiency systems producing
3 demonstrable electricity savings.

4 (2) The term “qualifying entity” means an indi-
5 vidual, corporation, partnership, joint venture, trust
6 or other entity identified by the Secretary of Energy
7 under subsection (c)(1) as eligible for a guaranteed
8 loan under this section.

9 (3) The term “Secretary” means the Secretary
10 of Energy.

11 **TITLE III—ON-SITE GENERATION**

12 **SEC. 301. NET METERING.**

13 (a) ADOPTION OF STANDARD.—Section 111(d) of the
14 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
15 2621(d)) is amended by adding at the end the following:

16 “(13) NET METERING.—

17 “(A) Each electric utility shall make available
18 upon request net metering service to any electric
19 consumer that the electric utility serves.

20 “(B) For purposes of implementing this para-
21 graph, any reference contained in this section to the
22 date of enactment of this Act shall be deemed to be
23 a reference to the date of enactment of this para-
24 graph.”.

1 (b) SPECIAL RULES FOR NET METERING.—Section
2 115 of the Public Utility Regulatory Policies Act of 1978
3 (16 U.S.C. 2625) is amended by adding at the end the
4 following:

5 “(i) NET METERING.—In undertaking the consider-
6 ation and making the determination concerning net meter-
7 ing established by section 111(d)(13), the following shall
8 apply:

9 “(1) RATES AND CHARGES.—An electric util-
10 ity—

11 “(A) shall charge the owner or operator of
12 an on-site generating facility rates and charges
13 that are identical to those that would be
14 charged other electric consumers of the electric
15 utility in the same rate class; and

16 “(B) shall not charge the owner or oper-
17 ator of an on-site generating facility any addi-
18 tional standby, capacity, interconnection, or
19 other rate or charge.

20 “(2) MEASUREMENT.—An electric utility that
21 sells electric energy to the owner or operator of an
22 on-site generating facility shall measure the quantity
23 of electric energy produced by the on-site facility
24 and the quantity of electricity consumed by the
25 owner or operator of an on-site generating facility

1 during a billing period in accordance with normal
2 metering practices.

3 “(3) ELECTRIC ENERGY SUPPLIED EXCEEDING
4 ELECTRIC ENERGY GENERATED.—If the quantity of
5 electric energy sold by the electric utility to an on-
6 site generating facility exceeds the quantity of elec-
7 tric energy supplied by the on-site generating facility
8 to the electric utility during the billing period, the
9 electric utility may bill the owner or operator for the
10 net quantity of electric energy sold, in accordance
11 with normal metering practices.

12 “(4) ELECTRIC ENERGY GENERATED EXCEED-
13 ING ELECTRIC ENERGY SUPPLIED.—If the quantity
14 of electric energy supplied by the on-site generating
15 facility to the electric utility exceeds the quantity of
16 electric energy sold by the electric utility to the on-
17 site generating facility during the billing period—

18 “(A) the electric utility may bill the owner
19 or operator of the on-site generating facility for
20 the appropriate charges for the billing period in
21 accordance with paragraph (2); and

22 “(B) the owner or operator of the on-site
23 generating facility shall be credited for the ex-
24 cess kilowatt-hours generated during the billing

1 period, with the kilowatt-hour credit appearing
2 on the bill for the following billing period.

3 “(5) SAFETY AND PERFORMANCE STAND-
4 ARDS.—An eligible on-site generating facility and
5 net metering system used by an electric consumer
6 shall meet all applicable safety, performance, reli-
7 ability and interconnection standards established by
8 the National Electrical Code, the Institute of Elec-
9 trical and Electronics Engineers, and Underwriters
10 Laboratories.

11 “(6) ADDITIONAL CONTROL AND TESTING RE-
12 QUIREMENTS.—The Commission, after consultation
13 with State regulatory authorities and nonregulated
14 electric utilities and after notice and opportunity for
15 comment, may adopt, by rule, additional control and
16 testing requirements for on-site generating facilities
17 and net metering systems that the Commission de-
18 termines are necessary to protect public safety and
19 system reliability.

20 “(7) DEFINITIONS.—For purposes of this sub-
21 section:

22 “(A) The term ‘eligible on-site generating
23 facility’ means—

24 “(i) a facility on the site of a residen-
25 tial electric consumer with a maximum

1 generating capacity of 25 kilowatts or less;

2 or

3 “(ii) a facility on the site of a com-
4 mercial electric consumer with a maximum
5 generating capacity of 1,000 kilowatts or
6 less—

7 that is fueled solely by a renewable energy re-
8 source.

9 “(B) The term ‘renewable energy resource’
10 means solar, wind, biomass, geothermal or wave
11 energy; landfill gas; fuel cells; or a combined
12 heat and power system.

13 “(C) The term ‘net metering service’
14 means service to an electric consumer under
15 which electric energy generated by that electric
16 consumer from an eligible on-site generating fa-
17 cility and delivered to the local distribution fa-
18 cilities may be used to offset electric energy
19 provided by the electric utility to the electric
20 consumer during the applicable billing period.

21 “(8) STATE AUTHORITY.—An electric utility
22 must provide net metering services to electric con-
23 sumers until the cumulative generating capacity of
24 net metering systems equals 1.0 percent of the util-
25 ity’s peak demand during the most recent calendar

1 year. This subsection does not preclude a state from
2 imposing additional requirements regarding the
3 amount of net metering available within a state con-
4 sistent with the requirements in this section.”.

5 **SEC. 302. INTERCONNECTION.**

6 (a) DEFINITIONS.—Section 3 of the Federal Power
7 Act (16 U.S.C. 796) is amended—

8 (1) by striking paragraph 23 and inserting the
9 following:

10 “(23) TRANSMITTING UTILITY.—The term
11 ‘transmitting utility’ means any entity (notwith-
12 standing section 201(f)) that owns, controls or oper-
13 ates an electric power transmission facility that is
14 used for the sale of electric energy.”; and

15 (2) by adding at the end the following:

16 “(26) APPROPRIATE REGULATORY AUTHOR-
17 ITY.—The term ‘appropriate regulatory authority’
18 means—

19 “(A) the Commission;

20 “(B) a State commission;

21 “(C) a municipality; or

22 “(D) a cooperative that is self-regulating
23 under State law and is not a public utility.

1 “(27) GENERATING FACILITY.—The term ‘gen-
2 erating facility’ means a facility that generates elec-
3 tric energy.

4 “(28) LOCAL DISTRIBUTION UTILITY.—The
5 term ‘local distribution facility’ means an entity that
6 owns, controls or operates an electric power distribu-
7 tion facility that is used for the sale of electric en-
8 ergy.

9 “(29) NON-FEDERAL REGULATORY AUTHOR-
10 ITY.—The term ‘non-Federal regulatory authority’
11 means an appropriate regulatory authority other
12 than the Commission.”.

13 (b) INTERCONNECTION TO DISTRIBUTION FACILI-
14 TIES.—Section 210 of the Federal Power Act (16 U.S.C.
15 824i) is amended—

16 (1) by redesignating subsection (e) as sub-
17 section (g); and

18 (2) by inserting after subsection (d) the fol-
19 lowing:

20 “(e) INTERCONNECTION TO DISTRIBUTION FACILI-
21 TIES.—

22 “(1) INTERCONNECTION.—

23 “(A) A local distribution utility shall inter-
24 connect a generating facility with the distribu-

1 tion facilities of the local distribution utility if
2 the owner of the generating facility—

3 “(i) complies with the final rule pro-
4 mulgated under paragraph (2); and

5 “(ii) pays the costs of the interconnec-
6 tion.

7 “(B) The costs of the interconnection—

8 “(i) shall be just and reasonable, and
9 not unduly discriminatory or preferential,
10 as determined by the appropriate regu-
11 latory authority; and

12 “(ii) shall be comparable to the costs
13 charged by the local distribution utility for
14 interconnection by any similarly situated
15 generating facility to the distribution facili-
16 ties of the local distribution utility.

17 “(C) The right of a generating facility to
18 interconnect under subparagraph (A) does not
19 relieve the generating facility or the local dis-
20 tribution utility of other Federal, State, or local
21 requirements.

22 “(2) RULE.—Not later than six months after
23 the date of enactment of this subparagraph, the
24 Commission shall promulgate final rules establishing
25 reasonable and appropriate technical standards for

1 the interconnection of a generating facility with the
2 distribution facilities of a local distribution utility.

3 “(3) RIGHT TO BACKUP POWER.—

4 “(A) In accordance with subparagraph (B)
5 a local distribution utility shall offer to sell
6 backup power to a generating facility that has
7 interconnected with the local distribution utility
8 to the extent that the local distribution utility—

9 “(i) is not subject to an order of a
10 non-Federal regulatory authority to pro-
11 vide open access to the distribution facili-
12 ties of the local distribution utility;

13 “(ii) has not offered to provide open
14 access to the distribution facilities of the
15 local distribution utility; or

16 “(iii) does not allow a generating fa-
17 cility to purchase backup power from an-
18 other entity using the distribution facilities
19 of the local distribution utility.

20 “(B) A sale of backup power under sub-
21 paragraph (A) shall be at such a rate, and
22 under such terms and conditions as are just
23 and reasonable and not unduly discriminatory
24 or preferential, taking into account the actual
25 incremental cost, whenever incurred by the local

1 distribution utility, to supply such backup
 2 power service during the period in which the
 3 backup power service is provided, as determined
 4 by the appropriate regulatory authority.

5 “(C) A local distribution utility shall not
 6 be required to offer backup power for resale to
 7 any entity other than the entity for which the
 8 backup power is purchased.

9 “(D) To the extent backup power is used
 10 to serve a new or expanded load on the dis-
 11 tribution system, the generating facility shall
 12 pay any reasonable cost associated with any
 13 transmission, distribution, or generating up-
 14 grade required to provide such service.”.

15 (e) INTERCONNECTION TO TRANSMISSION FACILI-
 16 TIES.—Section 210 of the Federal Power Act (16 U.S.C.
 17 824i) (as amended by subsection (b)) is amended by in-
 18 serting after subsection (e) the following:

19 “(f) INTERCONNECTION TO TRANSMISSION FACILI-
 20 TIES.—

21 “(1) INTERCONNECTION.—

22 “(A) Notwithstanding subsections (a) and
 23 (c), a transmitting utility shall interconnect a
 24 generating facility with the transmission facili-

1 ties of the transmitting utility if the owner of
2 the generating facility—

3 “(i) complies with the final rules pro-
4 mulgated under paragraph (2); and

5 “(ii) pays the costs of interconnection.

6 “(B) Subject to subparagraph (C), the
7 costs of interconnection—

8 “(i) shall be just and reasonable and
9 not unduly discriminatory or preferential;
10 and

11 “(ii) shall be comparable to the costs
12 charged by the transmitting utility for
13 interconnection by any similarly situated
14 generating facility to the transmitting fa-
15 cilities of the transmitting utility.

16 “(C) A non-Federal regulatory authority
17 that is authorized under Federal law to deter-
18 mine the rates for transmission service shall be
19 authorized to determine the costs of any inter-
20 connection under this subparagraph.

21 “(D) The right of a generating facility to
22 interconnect under subparagraph (A) does not
23 relieve the generating facility or the transmit-
24 ting utility of other Federal, State or local re-
25 quirements.

1 “(2) RULE.—Not later than six months after
2 the date of enactment of this subparagraph, the
3 Commission shall promulgate rules establishing rea-
4 sonable and appropriate technical standards for the
5 interconnection of a generating facility with the
6 transmission facilities of a transmitting utility.

7 “(3) RIGHT TO BACKUP POWER.—

8 “(A) In accordance with subparagraph
9 (B), a transmitting utility shall offer to sell
10 backup power to a generating facility that has
11 interconnected with the transmitting utility un-
12 less—

13 “(i) Federal or State law allows a
14 generating facility to purchase backup
15 power from an entity other than the trans-
16 mitting utility; or

17 “(ii) a transmitting utility allows a
18 generating facility to purchase backup
19 power from an entity other than the trans-
20 mitting utility using the transmission fa-
21 cilities of the transmitting utility and the
22 transmission facilities of any other trans-
23 mitting utility.

24 “(B) A sale of backup power under sub-
25 paragraph (A) shall be at such a rate and

1 under such terms and conditions as are just
2 and reasonable and not unduly discriminatory
3 or preferential, taking into account the actual
4 incremental cost, whenever incurred by the local
5 distribution utility, to supply such backup
6 power service during the period in which the
7 backup power service is provided, as determined
8 by the appropriate regulatory authority.

9 “(C) A transmitting utility shall not be re-
10 quired to offer backup power for resale to any
11 entity other than the entity for which the
12 backup power is purchased.

13 “(D) To the extent backup power is used
14 to serve a new or expanded load on the trans-
15 mission system, the generating facility shall pay
16 any reasonable costs associated with any trans-
17 mission, distribution or generation upgrade re-
18 quired to provide such service.”.

19 (d) CONFORMING AMENDMENTS.—Section 210 of the
20 Federal Power Act (16 U.S.C. 824i) is amended—

21 (1) in subsection (a)(1)—

22 (A) by inserting “transmitting utility, local
23 distribution utility,” after “electric utility,”;
24 and

1 (B) in subparagraph (A) by inserting “any
2 transmitting utility,” after “small power pro-
3 duction facility,”;

4 (2) in subsection (b)(2) by striking “an evi-
5 dentiary hearing” and inserting “a hearing”;

6 (3) in subsection (c)(2)—

7 (A) in subparagraph (B) by striking “or”
8 at the end;

9 (B) in subparagraph (C) by striking “and”
10 at the end and inserting “or”; and

11 (C) by adding at the end the following:

12 “(D) promote competition in electricity
13 markets, and”; and

14 (4) in subsection (d) by striking the last sen-
15 tence.

16 **SEC. 303. ON-SITE GENERATION FOR EMERGENCY FACILI-**
17 **TIES.**

18 (a) **DEMONSTRATION AND TECHNOLOGY TRANSFER**
19 **PROGRAM.**—The Secretary shall establish a demonstration
20 program for the implementation of innovative technologies
21 for renewable uninterruptible power supply systems lo-
22 cated in eligible buildings and for the dissemination of in-
23 formation on such systems to interested parties.

1 (b) LIMIT ON FEDERAL FUNDING.—The Secretary
2 shall provide no more than 40 percent of the costs of
3 projects funded under this section.

4 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
5 hereby authorized to be appropriated \$30,000,000 for
6 each of the fiscal years 2004 through 2007 to carry out
7 this section.

8 (d) DEFINITIONS.—For purposes of this section:

9 (1) The term “eligible facility” means a build-
10 ing owned or operated by a State or local govern-
11 ment that is used for critical governmental dispatch
12 and communication; police, fire or emergency serv-
13 ices; traffic control systems; or public water or sewer
14 systems.

15 (2) The term “Secretary” means the Secretary
16 of Energy;

17 (3) The term “renewable uninterruptible power
18 supply system” means a system designed to main-
19 tain electrical power to critical loads in a public fa-
20 cility in the event of a loss or disruption in conven-
21 tional grid electricity, where such system derives its
22 energy production or storage capacity solely from
23 solar, wind, biomass, geothermal or ocean energy,

- 1 natural gas; landfill gas; a fuel cell device; or from
- 2 a combination of the above.

