I

110TH CONGRESS
1ST SESSION

H. R. 4059

To promote electric transmission construction in rural areas with significant renewable energy potential, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2007

Mr. INSLEE (for himself and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Natural Resources and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To promote electric transmission construction in rural areas with significant renewable energy potential, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Rural Clean Energy Superhighways Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) electricity produced from renewable resources helps to reduce greenhouse gas emissions, and limits emissions of other pollutants regulated pursuant to the Clean Air Act, enhances national energy security, and provides substantial economic benefits;

(2) the potential exists for a far greater percentage of electric production in the United States to be generated through the use of renewable resources than current levels;

(3) many of the best potential renewable energy resources are located in rural areas far from population centers;

(4) the lack of adequate electric transmission capacity is one of the primary obstacles to the development of electric generation facilities fueled by renewable energy resources;

(5) the economies of many rural areas would substantially benefit from the increased development of electric generation facilities fueled by renewable energy resources; and

(6) it is in the national interest for the Federal Government to implement policies that will enhance the amount of electric transmission capacity avail-

able to take full advantage of renewable energy resources to generate electricity.

SEC. 3. NATIONAL RENEWABLE ENERGY ZONES.

(a) IN GENERAL.—Title II of the Federal Power Act (16 U.S.C. 824 et seq.) is amended—

(1) by inserting before the section heading of section 201 (16 U.S.C. 824 et seq.) the following:

"Subtitle A—Regulation of Electric Utility Companies";

and

(2) by adding at the end the following:

"Subtitle B—National Renewable Energy Zones

"SEC. 231. DEFINITIONS.

''In this subtitle:

''(1) The term 'Commission' means the Federal Energy Regulatory Commission.

''(2) The term 'electricity from renewable energy' means electric energy generated from—

''(A) solar, wind, geothermal or marine and hydrokinetic renewable energy;

''(B) biomass (as defined in section 203(b) of the Energy Policy Act of 2005);

''(C) landfill gas; or

''(D) incremental hydropower.

''(3) The term 'marine and hydrokinetic renewable energy' means energy derived from—

''(A) waves, tides, and currents in oceans, estuaries, and tidal areas;

''(B) free flowing water in rivers, lakes, and streams;

''(C) free flowing water in an irrigation system, canal, or other man-made channel, including projects that utilize nonmechanical structures to accelerate the flow of water for electric power production purposes; or

''(D) differentials in ocean temperature (ocean thermal energy conversion).

''(4) The term 'Federal Transmitting Utility' means a Federal Power Marketing Administration that owns or operates electric transmission facilities. Such term includes the Tennessee Valley Authority.

''(5) The term 'geothermal energy' means energy derived from a geothermal deposit (within the meaning of section 613(e)(2) of the Internal Revenue Code of 1986).

''(6) The term 'renewable energy trunkline' means a radial transmission line, including all associated transmission facilities and equipment within a National Renewable Energy Zone, that is used to

deliver electricity from renewable energy generators to the point where it connects to a high-voltage electric transmission system, including any modifications, additions or upgrades to such facilities and equipment. A renewable energy trunkline shall not include network upgrades.

''(7) The term 'network upgrades' means the additions or modifications to the transmission system of the transmission provider required at or beyond the point at which the generators or renewable energy trunklines interconnect to the transmission system of the transmission provider to accommodate the transmission of renewable energy generated in a National Renewable Energy Zone.

''(8) The term 'Indian lands' means—

''(A) any land within the limits of any Indian reservation, pueblo or Rancheria,

''(B) any land not within the limits of any Indian reservation, pueblo or Rancheria title to which was on the date of enactment of this Act either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation,

''(C) any dependent Indian community, and

''(D) any land conveyed to any Alaska Native corporation under the Alaska Native Claims Settlement Act.

''(9) The term 'electricity consuming area' means the area within which electricity from renewable energy would be consumed if a renewable energy trunkline or network upgrades were to be constructed to deliver electricity from renewable energy generated in a National Renewable Energy Zone.

''(10) The term 'incremental hydropower' means additional hydroelectric power generation that is achieved from increased efficiency or additions of capacity made on or after January 1, 2001, at a hydroelectric facility that was placed in service before that date.

"SEC. 232. DESIGNATION OF NATIONAL RENEWABLE ENERGY ZONES.

''(a) DESIGNATION.—Within 6 months after the date of enactment of this subtitle, the President shall designate as a National Renewable Energy Zone each area that meets each of the following conditions:

''(1) The potential to contain in excess of one gigawatt of electricity generation capacity from re-

newable energy if there were a sufficient level of electric transmission capacity without having a material detrimental impact on reliability.

''(2) An insufficient level of electric transmission capacity to enable one or more electricity consuming areas to access the potential renewable energy generation capacity identified pursuant to paragraph (1).

''(3) Substantial demand in one or more electricity consuming areas for renewable energy that would be generated in the National Renewable Energy Zone if there were a sufficient level of transmission capacity.

''(b) FACTORS.—In making the designations required by subsection (a), the President shall take into account each of the following:

''(1) State and Federal requirements for utilities to incorporate renewable energy as part of serving load.

''(2) The impact of the development of renewable energy trunkline facilities and network upgrades on the aesthetic and environmental values of land contained in an area eligible for National Renewable Energy Zone designation.

''(3) Compatibility with regional transmission plans.

''(c) ADDITIONAL FACILITIES.—Within 1 year after the designation of a National Renewable Energy Zone, the President, after consulting with the Federal Transmitting Utilities, shall identify, and provide public notice of, specific additional renewable energy trunkline facilities and network upgrades required to substantially increase the generation of electricity from renewable energy within each National Renewable Energy Zone. The President shall, when identifying transmission facilities pursuant to this subsection, take into account existing transmission plans for the areas included in a National Renewable Energy Zone.

''(d) PUBLIC VIEWS.—Before designating an area as a National Renewable Energy Zone, the President shall, after notice and public comment, consider the views of affected States, Indian Tribe and other interested persons.

''(e) EXPANSION.—The President shall every 3 years after the date of enactment of this subtitle consider whether to expand an existing National Renewable Energy Zone or designate a new National Renewable Energy Zone pursuant to the criteria set forth in subsection (a).

''(f) DELISTING.—The President, after opportunity for public comment, shall every 9 years review the Na-

tional Renewable Energy Zones designated pursuant to subsection (a) and delist those Zones that no longer meet the criteria specified in that subsection.

"SEC. 233. ENCOURAGING CLEAN ENERGY SUPERHIGHWAY DEVELOPMENT IN NATIONAL RENEWABLE ENERGY ZONES.

"(a) COST RECOVERY.—(1) Consistent with sections 205 and 206, the Commission shall issue and enforce such regulations as are necessary to ensure that a public utility that finances transmission capacity to transmit electricity from renewable energy from a National Renewable Energy Zone to an electricity consuming area after the date of enactment of this subtitle recovers through its rates for transmission service all prudently incurred costs and a reasonable return on equity associated with the construction and operation of such new transmission capacity. In making such regulations, the Commission shall take into account the current and future beneficiaries of the new transmission capacity.

"(2) A regulation under paragraph (1) shall be enforceable in accordance with the provisions of law applicable to enforcement of regulations under this Act.

"(b) RENEWABLE ENERGY TRUNKLINE TRANSMISSION FINANCING MECHANISM.—The Commission shall permit a renewable energy trunkline built by a public util-

ity referred to in this section in a National Renewable Energy Zone to, in advance of significant generation interconnection requests, be initially funded through a transmission charge imposed upon all transmission customers of the public utility or, if the renewable energy trunkline is built in an area served by a Regional Transmission Organization or independent system operator, all of the transmission customers of such Regional Transmission Organization or independent systems operator, if the Commission makes each of the following findings:

''(1) The renewable energy resources that would utilize the renewable energy trunkline are remote from the grid and load centers.

''(2) The renewable energy trunkline will likely result in multiple individual renewable energy electric generation projects being developed by multiple competing developers.

''(3) The renewable energy trunkline has at least one project subscribed through an executed generation interconnection agreement with the transmission provider and has tangible demonstration of additional interest.

''(c) NEW PROJECTS.—As new electric generation projects are constructed and interconnected to the renewable energy trunkline, the Commission shall require the

transmission services contract holder for such generation project to, on a going forward basis, pay a pro-rata share of the renewable energy trunkline facility's costs to the transmission provider in order to reduce the otherwise applicable rates of customers of the public utility or Regional Transmission Organization, unless the public utility proposes to the Commission, and the Commission accepts, an alternative whereby generation projects would pay a lesser amount.

''(d) NETWORK UPGRADES COST ALLOCATION.—

''(1) Within 6 months after the date the President designates an area as a National Renewable Energy Zone, the State utility commissions or other appropriate bodies having jurisdiction over the public utilities providing electric service in the National Renewable Energy Zone or the related electricity consuming area may jointly propose to the Commission a cost allocation plan for network upgrades built by a public utility that would serve the electricity consuming area.

''(2) The Commission may approve the plan proposed by the States pursuant to paragraph (1) if, taking into account the users of the transmission facilities, the plan will result in rates that are just and reasonable and not unduly discriminatory or pref-

erential and the plan would not unduly inhibit the development of renewable energy electric generation projects.

''(3) Unless a plan has been approved by the Commission pursuant to paragraph (2), the Commission shall fairly allocate the costs of new network upgrades built in the area by one or more public utility transmission providers (recognizing the national and regional benefits associated with increased access to electricity from renewable energy) pursuant to a rolled-in transmission charge in the rates of all public utility transmission providers in the National Renewable Energy zone and in the related electricity consuming area. Nothing in subsection (b) or in the Rural Clean Energy Superhighways Act shall expand, directly or indirectly, the jurisdiction of the Commission with respect to any Federal Transmitting Utility.

''(4) A cost allocation identified in paragraph (3) shall be deemed consistent with sections 205 and 206.

''(e) REGULATIONS.—The Commission shall issue and enforce such regulations as are necessary to ensure that electric generation produced from renewable sources are interconnected expeditiously to the grid.''.

(b) FEDERAL TRANSMITTING UTILITIES.—(1) If no privately or publicly funded entity commits within 3 years of the identification required in section 232(c) of the Federal Power Act to finance (either on its own or through a third party financing arrangement with a Federal Transmitting Utility) a network upgrade or a renewable energy trunkline facility identified in such notice, a Federal Transmitting Utility shall finance such facilities if the Federal Transmitting Utility determines that—

(A) the facilities would be, partially or wholly, located within the area in which the Federal Transmitting Utility is statutorily authorized to construct transmission facilities;

(B) the facilities may be constructed and operated without having a material detrimental impact on reliability;

(C) equally effective, least cost, nontransmission options are unavailable;

(D) a substantial likelihood exists that the facility will be sufficiently subscribed once constructed and will be financially viable;

(E) there are sufficient funds in the Transmission Fund established by paragraph (5) to finance such facilities; and

(F) the facilities are not in conflict with existing transmission plans for the areas included in a National Renewable Energy Zone.

(2) The Federal Transmitting Utility may also study, construct, operate, and maintain facilities financed under paragraph (1), or may cooperate with others in performing these functions, as arranged at the discretion of the Federal Transmitting Utility.

(3) Notwithstanding paragraphs (1) and (2), a Federal Transmitting Utility shall not finance and construct a network upgrade associated with transmission facilities owned by another party without the consent of such party.

(4) A Federal Transmitting Utility that makes the determination to finance facilities pursuant to paragraph (1) shall coordinate with any regional planning organizations and Federal and non-Federal transmission-owning utilities, consistent with generally acceptable regional coordination practices, to identify the best plans of service for those facilities.

(5)(A) Not more than $10,000,000,000 is authorized, to be deposited in a Transmission Fund in the United States Treasury. Amounts in such Fund shall be available for expenditure by the Secretary of Energy, subject to annual appropriation, as provided in this paragraph.

(B) Subject to the availability of funds in the Transmission Fund, the Secretary of Energy is authorized to issue and sell bonds, notes, and other evidence of indebtedness to the Secretary of the Treasury from time to time to finance the activities of the Federal Transmitting Utilities authorized by paragraph (1). Except as specified in subparagraph (C), amounts used for the purposes of this Act shall be recovered by the Federal Transmitting Utility and repaid to the Transmission Fund over the life of the facilities.

(C) The Federal Transmitting Utility shall establish rate and accounting policies and procedures to ensure that capital expenditures incurred under this section are scheduled to be recovered by the Federal Transmitting Utility and repaid to the Transmission Fund over the life of the facilities. Operation and maintenance costs shall be recovered and repaid to the Transmission Fund in the year incurred. These policies and procedures shall categorize costs as nonreimbursable to the degree necessary so as not to impact the rates paid by existing power and transmission customers of the Federal Transmitting Utility, who shall not be liable for the costs of any associated renewable energy trunklines or network upgrades except for the costs associated with any transmission capacity financed pursuant to this section that these customers uti-

lize as determined by each Federal Transmitting Utility. Any amounts that cannot be recovered as provided in this subparagraph shall not be required to be repaid by the Federal Transmitting Utility to the Transmission Fund in the United States Treasury.

(6) The regulations promulgated pursuant to this Act shall, to the maximum extent practicable, ensure that not less than 75 percent of the capacity of any radial network upgrade and renewable energy trunkline facilities financed by a Federal Transmitting Utility pursuant to this section shall be available for reservation on a priority basis for electricity from renewable energy.

(c) COMMISSION JURISDICTION.—Nothing in this subsection shall expand, directly or indirectly, the jurisdiction of the Commission with respect to any Federal Transmitting Utility.

SEC. 4. FEDERAL POWER MARKETING ADMINISTRATION AND TVA.

(a) PROMOTION OF RENEWABLE ENERGY AND ENERGY EFFICIENCY.—The Western Area Power Administration, the Southeastern Area Power Administration, the Southwestern Area Power Administration and the Tennessee Valley Authority shall each identify and, to the extent economically feasible and not inconsistent with other statutory obligations, take steps to promote energy con-

servation and renewable energy electric resource development in the regions served by such utility.

(b) ACQUISITION OF RENEWABLE ENERGY AND RENEWABLE ENERGY CREDITS.—Each Federal Power Marketing Administration and the Tennessee Valley Authority may, subject to advance payment arrangements by the Federal Government being in place that assure the Federal Power Marketing Administration is held financially harmless for its actions pursuant to this section, use its purchasing power to acquire on behalf of the Federal Government electricity from renewable energy and renewable energy credits in sufficient amounts to meet the requirements of section 203 of the Energy Policy Act of 2005. The Federal agencies on behalf of which a Federal Power Marketing Administration or the Tennessee Valley Authority acquires renewable energy or renewable energy credits shall fully reimburse the Federal Power Marketing Administration or the Tennessee Valley Authority for such transactions.

(c) TRIBAL RENEWABLE ENERGY.—Each Federal Power Marketing Administration and the Tennessee Valley Authority shall identify opportunities for promoting the development of facilities generating electricity from renewable energy on Indian lands.

(d) NONREIMBURSABLE FUNDS.—The amounts expended by a Federal Power Marketing Administration or the Tennessee Valley Authority pursuant to this section shall not be subject to reimbursement by the customers of such utility.

SEC. 5. CONSISTENCY WITH ENVIRONMENTAL LAWS.

Nothing in this Act shall be deemed to waive any existing Federal or State environmental protection provision, including the requirements of—

(1) the National Forest Management Act of 1976 (16 U.S.C. 472a et seq.);

(2) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(3) the National Environmental Policy Act of 1969 (42 U.S.C. 4231 et seq.);

(4) the Federal Water Pollution Control Act of 1969 (33 U.S.C. 1251 et seq.); or

(5) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

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