

113TH CONGRESS
1ST SESSION

H. R. 2762

To amend the Federal Power Act to establish a regional transmission planning process, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2013

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Power Act to establish a regional transmission planning process, 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 “Powering America for
5 Tomorrow Act”.

6 **SEC. 2. AMENDMENT OF THE FEDERAL POWER ACT.**

7 Section 216 of the Federal Power Act (16 U.S.C.
8 824p) is amended as follows:

1 (1) By amending the section heading to read as
2 follows: “**REGIONAL TRANSMISSION PLANS FOR**
3 **THE INTERSTATE TRANSMISSION SYSTEM**”.

4 (2) By striking subsection (i) and redesignating
5 subsections (j) and (k) as subsections (k) and (l), re-
6 spectively.

7 (3) By redesignating subsections (d) through
8 (h) as subsections (f) through (j), respectively.

9 (4) By striking subsections (a), (b), and (c) and
10 inserting the following:

11 “(a) PURPOSES.—The purposes of this section are as
12 follows:

13 “(1) To ensure electric reliability, fuel diversity,
14 and wholesale power price stability across the elec-
15 tric transmission grid.

16 “(2) To reinforce, strengthen, and enhance elec-
17 tric transmission infrastructure as an integrated net-
18 work system.

19 “(3) To facilitate the development of clean en-
20 ergy resources that cannot be located near an exist-
21 ing transmission facility or load center.

22 “(4) To assist States and electric energy service
23 providers in meeting the requirements of applicable
24 renewable portfolio standards.

1 “(5) To take maximum advantage of smart grid
2 technologies to promote electric grid improvements,
3 energy efficiency, and demand response.

4 “(6) To coordinate regional planning and local
5 siting of interstate high-voltage electric transmission
6 systems.

7 “(b) DEFINITIONS.—In this section:

8 “(1) The term ‘bulk-power system’ has the
9 meaning given such term in section 215(a)(1).

10 “(2) The term ‘designated region’ means a re-
11 gion designated under subsection (c)(1).

12 “(3) The term ‘Electric Reliability Organiza-
13 tion’ has the meaning given such term in section
14 215(a)(2).

15 “(4) The term ‘Interconnection’ has the mean-
16 ing given such term in section 215(a)(5).

17 “(5) The term ‘regional entity’ has the meaning
18 given such term in section 215(a)(7).

19 “(6) The term ‘regional transmission plan’
20 means a comprehensive plan required under sub-
21 section (c)(3) for the development of the interstate
22 electric transmission system in a designated region.

23 “(7) The term ‘regional transmission planner’
24 means a person or entity approved under subsection

(c)(2) to develop and maintain a regional transmission plan required under this section.

“(8) The term ‘regional transmission project’ means an overhead or underground transmission facility, consisting of conductors or cables, towers, manhole duct systems, phase shifting transformers, reactors, capacitors, substations, and any ancillary facilities and equipment necessary for the proper operation of the facility—

“(A) that—

“(i) operates at or above a voltage of—

“(I) 230 kilovolts alternating current; or

“(II) 300 kilovolts direct current;

“(ii) is a very high current conductor or superconducting cable that operates at or above a power equivalent to the power of a conventional transmission cable operating at or above 230 kilovolts alternating current or 300 kilovolts direct current; or

“(iii) is a renewable feeder line; and

“(B) that is included in a regional transmission plan submitted to the Commission under subsection (c)(3).

1 “(9) The term ‘renewable feeder line’ means a
2 transmission line that—

3 “(A) operates at or above a voltage of 100
4 kilovolts; and

5 “(B) is identified in a regional trans-
6 mission plan submitted to the Commission
7 under subsection (c)(3) as a facility that is to
8 be developed to facilitate collection of electric
9 energy produced by renewable energy.

10 “(c) REGIONAL TRANSMISSION PLANS.—

11 “(1) DESIGNATION OF REGIONS.—Not later
12 than 12 months after the date of enactment of this
13 subsection, the Commission, in consultation with the
14 Electric Reliability Organization, regional entities,
15 Transmission Organizations, transmission owners,
16 State regulatory authorities of the States comprising
17 the Eastern Interconnection, and State regulatory
18 authorities of the States comprising the Western
19 Interconnection, shall designate one or more regions
20 within the Eastern Interconnection and one or more
21 regions within the Western Interconnection, to be
22 represented by regional transmission planners ap-
23 proved under paragraph (2). In determining the ap-
24 propriate size and scope of a region, the Commission
25 shall consider the optimal scope needed to ensure

1 comprehensive regional transmission planning and
2 operational efficiency, the size and scope of existing
3 Regional Transmission Organizations and operating
4 bulk-power systems, and methods for interregional
5 coordination agreements to ensure a sufficiently
6 broad regional transmission planning process.

7 “(2) REGIONAL TRANSMISSION PLANNERS.—

8 “(A) APPLICATION AND APPROVAL.—Any
9 person or entity, including a Regional Trans-
10 mission Organization or other regionally based
11 planning entity with an established regional
12 transmission planning process, as determined
13 by the Commission, may submit an application
14 to the Commission for approval as the regional
15 transmission planner for a designated region.
16 Not later than 18 months after the designation
17 of a region under paragraph (1), the Commis-
18 sion shall approve one such regional trans-
19 mission planner for each such designated region
20 to develop and maintain a regional transmission
21 plan required under this section.

22 “(B) CONSIDERATION.—In approving a re-
23 gional transmission planner under subpara-
24 graph (A), the Commission shall consider the
25 existing or reasonably anticipated capabilities of

1 any regionally based planning entity described
2 in such subparagraph in regional transmission
3 planning.

4 “(C) CONTENTS OF APPLICATION.—An ap-
5 plicant entity shall include in an application for
6 approval as the regional transmission planner
7 for a designated region the operating proce-
8 dures of such applicant entity and any method
9 such applicant entity will use to adhere to the
10 requirements for a regional transmission plan-
11 ning process described in paragraph (5).

12 “(D) COMPLIANCE.—The Commission may
13 review the compliance of a regional trans-
14 mission planner approved under subparagraph
15 (A) with the requirements of this section and
16 any regulations thereunder. If the Commission
17 finds such a regional transmission planner has
18 failed or is failing to comply with such require-
19 ments or regulations, the Commission may re-
20 voke the approval of such regional transmission
21 planner for a designated region and accept ap-
22 plications for a new regional transmission plan-
23 ner for such region to be approved in accord-
24 ance with this section.

1 “(3) REGIONAL TRANSMISSION PLAN RE-
2 QUIRED.—Not later than 2 years after the approval
3 of a regional transmission planner under paragraph
4 (2), and every 2 years thereafter, such regional
5 transmission planner shall submit to the Commission
6 an initial or updated regional transmission plan that
7 meets the requirements of this section. The Commis-
8 sion shall ensure that each such plan is the result
9 of a planning process that adhered to the require-
10 ments for a regional transmission planning process
11 described in paragraph (5). The Commission shall
12 make all regional transmission plans submitted
13 available to the public.

14 “(4) REGIONAL TRANSMISSION PLAN DESIGN.—
15 A regional transmission plan required under this
16 section shall, with respect to a designated region—

17 “(A) be designed to—

18 “(i) maintain and enhance the eco-
19 nomic, reliability, and energy security ben-
20 efits of the regional electric transmission
21 system, including remediation of electric
22 grid congestion; and

23 “(ii) anticipate and facilitate develop-
24 ment of electric energy generation from di-
25 verse energy resources; and

1 “(B) consider whether proposals to expand
2 and upgrade high voltage electric transmission
3 in the designated region and across the bound-
4 aries of the designated region will minimize
5 congestion and promote service reliability, mar-
6 ket integration and efficiency, economic devel-
7 opment, deployment of smart grid technologies,
8 lowest cost delivered electric energy at whole-
9 sale, and the goals of applicable renewable port-
10 folio standards.

11 “(5) REGIONAL TRANSMISSION PLANNING
12 PROCESS.—The Commission shall ensure each re-
13 gional transmission planning process conducted by a
14 regional transmission planner is consistent with the
15 purposes of this section. The Commission shall en-
16 sure any such planning process—

17 “(A) is non-discriminatory, independent,
18 and conforms with the planning standards of
19 Commission Order No. 890 or any successor
20 order;

21 “(B) solicits and considers the input of
22 local and State policymakers, transmission facil-
23 ity owners and electric utilities, and market
24 participants;

1 “(C) is sufficiently broad in geographic
2 and market scope to produce economic and
3 operational efficiencies;

4 “(D) is designed to meet the need for the
5 timely construction or modification of regional
6 transmission projects; and

7 “(E) takes into account—

8 “(i) all applicable laws and regula-
9 tions governing the procurement of electric
10 energy generation;

11 “(ii) the potential effect on the future
12 operation of the electric transmission sys-
13 tem or on the regional transmission plan of
14 rejection or withdrawal of a proposed re-
15 gional transmission project;

16 “(iii) the development of transmission
17 facilities for which a completed application
18 for authorization has been filed and ac-
19 cepted by a State regulatory authority or
20 other applicable authority before the date
21 of submission of a regional transmission
22 plan under paragraph (3) but not origi-
23 nating from the planning process;

24 “(iv) the availability of non-trans-
25 mission resources such as opportunities for

1 energy efficiency, demand response, en-
2 hancements to economic dispatch, distrib-
3 uted generation, and installation of new
4 control, metering, or capacity enhancement
5 technologies; and

6 “(v) the development of the interstate
7 electric transmission system in the des-
8 ignated region for the 10 years after sub-
9 mission of a regional transmission plan
10 under paragraph (3).

11 “(6) TRANSMITTING UTILITIES AND POWER
12 MARKETING ADMINISTRATIONS.—Federal power
13 marketing administrations and transmitting utilities
14 in a designated region shall integrate their trans-
15 mission plans with the regional transmission plans
16 required by this section and shall otherwise partici-
17 pate in a regional transmission planning process by
18 a regional transmission planner in accordance with
19 this section.

20 “(7) COMMISSION ACTIVITIES.—If no regional
21 transmission planner for a designated region is ap-
22 proved under paragraph (2), or in the event that an
23 approved regional transmission planner does not
24 timely submit a regional transmission plan as re-
25 quired under paragraph (3), the Commission shall

1 designate a planner or undertake the planning ac-
2 tivities described in this subsection for the des-
3 ignated region concerned and develop such a plan
4 for such designated region expeditiously, in consulta-
5 tion with State regulatory authorities, as applicable,
6 for all affected States or areas, the Electric Reli-
7 ability Organization, regional entities, Transmission
8 Organizations, and transmission owners within the
9 region, as appropriate.

10 “(8) COST ALLOCATION.—Not later than 18
11 months after the date of enactment of this para-
12 graph, the Commission shall, by rule, require that
13 all regional high voltage electric transmission cost al-
14 location processes and methodologies adhere to a
15 clear and consistent set of regulatory principles, in-
16 cluding, as appropriate, that the costs of siting and
17 the construction or modification of transmission fa-
18 cilities shall be allocated consistent with the range
19 and distribution of benefits within the designated re-
20 gion that are provided by such facilities, the use of
21 the transmission system, or with other equitable and
22 economic considerations. In issuing a rule under this
23 paragraph, the Commission shall consider regional
24 cost allocation processes and methodologies being de-

1 veloped or in existence as of the date of enactment
2 of this paragraph.

3 “(9) PLAN COORDINATION.—The Commission
4 shall require regional transmission planners to co-
5 ordinate planning across regional boundaries within
6 an Interconnection in order to achieve the purposes
7 of this section.

8 “(d) CERTIFICATE OF PUBLIC CONVENIENCE AND
9 NECESSITY.—

10 “(1) PROPOSED FINDING OF PUBLIC CONVEN-
11 IENCE AND NECESSITY BY REGIONAL TRANSMISSION
12 PLANNER.—

13 “(A) INCLUSION OF PROPOSED FINDING IN
14 REGIONAL TRANSMISSION PLAN.—As part of a
15 regional transmission plan submitted to the
16 Commission under subsection (c)(3), a regional
17 transmission planner may identify a regional
18 transmission project or projects that such re-
19 gional transmission planner finds, based on the
20 record of the regional transmission planning
21 process, is required by, and consistent with, the
22 public convenience and necessity.

23 “(B) PUBLIC CONVENIENCE AND NECES-
24 SITY CERTIFICATE REQUEST.—A regional
25 transmission planner may submit to the Com-

1 mission a request to issue a certificate of public
2 convenience and necessity for a regional trans-
3 mission project identified in a regional trans-
4 mission plan submitted under subsection (c)(3).
5 Such request shall include a summary of the
6 record developed for such project during the re-
7 gional transmission planning process. The re-
8 quest shall be based on whether such regional
9 transmission project is or will be—

10 “(i) necessary to ensure regional com-
11 pliance with reliability standards or remedy
12 violations of such reliability standards;

13 “(ii) necessary to provide significant
14 relief from electric transmission congestion
15 as measured by objective criteria, including
16 consideration of the total cost of conges-
17 tion, hours of congestion, and the lack of
18 feasible economic alternative means to re-
19 lieve congestion;

20 “(iii) important to the diversification
21 of energy supply throughout the designated
22 region, including by meeting the goals of
23 applicable renewable portfolio standards; or

24 “(iv) important to the development of
25 smart grid technology that is consistent

1 with the policy under title XIII of the En-
2 ergy Independence and Security Act of
3 2007 (42 U.S.C. 17381 et seq.).

4 “(2) ISSUANCE OF CERTIFICATE OF PUBLIC
5 CONVENIENCE AND NECESSITY.—The Commission
6 may, after notice and opportunity for hearing, find
7 that a regional transmission project is in the public
8 convenience and necessity and issue a certificate of
9 public convenience and necessity for the ownership
10 and operation of such regional transmission project
11 and the provision of any related services under the
12 jurisdiction of the Commission if the Commission
13 finds that—

14 “(A) a regional transmission planner in-
15 cluded a proposed finding of public convenience
16 and necessity for such proposed regional trans-
17 mission project in one or more relevant regional
18 transmission plans submitted to the Commis-
19 sion under subsection (c)(3);

20 “(B) a regional transmission planner sub-
21 mitted a request for the issuance of such a cer-
22 tificate;

23 “(C) the proposed regional transmission
24 project will be used for the transmission of elec-
25 tric energy in interstate commerce;

1 “(D) the proposed regional transmission
2 project is consistent with the public interest in
3 terms of its engineering, reliability, and other
4 economic characteristics and the purposes of
5 this section; and

6 “(E) the proposed regional transmission
7 project will maximize, to the extent reasonable
8 and economical, existing rights-of-way and the
9 transmission capabilities of existing towers and
10 structures.

11 “(3) CONSIDERATIONS.—In issuing a certificate
12 of public convenience and necessity under this sub-
13 section, the Commission shall give substantial def-
14 erence to any proposed finding of public convenience
15 and necessity by a regional transmission planner in
16 a regional transmission plan submitted under sub-
17 section (c)(3).

18 “(4) MULTIPLE PROJECTS.—The Commission
19 may treat multiple proposed regional transmission
20 projects in any regional transmission plan as sepa-
21 rate for purposes of determining whether a certifi-
22 cate of public convenience and necessity should be
23 issued under this subsection.

24 “(5) CERTIFICATE APPLICATIONS.—The Com-
25 mission shall issue rules specifying—

1 “(A) the form of the application for a cer-
2 tificate of public convenience and necessity
3 under this subsection; and

4 “(B) the information to be contained in
5 such application.

6 “(6) ENVIRONMENTAL REVIEW.—

7 “(A) PROPOSED FINDING BY REGIONAL
8 TRANSMISSION PLANNER.—A proposed finding
9 by a regional transmission planner of public
10 convenience and necessity regarding a regional
11 transmission project is excluded from review
12 under the National Environmental Policy Act of
13 1969 (42 U.S.C. 4321 et seq.), provided an en-
14 vironmental assessment or environmental im-
15 pact statement is required to be prepared by
16 the Commission under such Act.

17 “(B) CONSIDERATION BY COMMISSION.—
18 In determining whether a certificate of public
19 convenience and necessity should be issued
20 under this subsection, the Commission may con-
21 sider, wholly or in part, any draft environ-
22 mental analysis conducted by a regional trans-
23 mission planner or relevant transmission pro-
24 vider and issued by the regional transmission
25 planner.

1 “(e) SITING AUTHORITY.—

2 “(1) EXCLUSIVE STATE SITING AUTHORITY.—A
3 State shall retain exclusive authority over the siting
4 of any transmission facility that is not a part of a
5 regional transmission project for which a certificate
6 of public convenience and necessity has been issued
7 under subsection (d)(2).

8 “(2) FEDERAL SITING AUTHORITY.—The Com-
9 mission may, after notice and an opportunity for
10 hearing, issue one or more permits for the construc-
11 tion or modification of a transmission facility if the
12 Commission finds that—

13 “(A) the transmission facility was identi-
14 fied as part or all of a regional transmission
15 project for which a certificate of public conven-
16 ience and necessity has been issued under sub-
17 section (d)(2);

18 “(B) at least one State in the designated
19 region for which such regional transmission
20 project is identified has approved the siting of
21 such transmission facility; and

22 “(C)(i) a State in which such transmission
23 facility is to be sited does not have authority
24 to—

1 “(I) approve the siting of the facility;

2 or

3 “(II) consider the interstate benefits
4 expected to be achieved by the proposed
5 siting of the transmission facility in the
6 State;

7 “(ii) the applicant for a permit is a trans-
8 mitting utility but does not qualify to apply for
9 a permit for such transmission facility in a
10 State in which such transmission facility is to
11 be sited because the applicant does not serve
12 end-use customers in the State; or

13 “(iii) a State commission or other entity
14 that has authority to approve the siting of such
15 transmission facility—

16 “(I) did not issue a decision on an ap-
17 plication seeking approval for the siting of
18 the facility within 1 year after the date on
19 which the applicant submitted a completed
20 application to the State commission or
21 other authority;

22 “(II) denied a complete application
23 seeking approval for the siting of the
24 transmission facility without proposing an
25 alternate site; or

1 “(III) authorized the siting of the fa-
2 cility subject to conditions that unreason-
3 ably interfere with the siting of the trans-
4 mission facility.”.

5 (5) In subsection (f), as redesignated by para-
6 graph (3), by striking “subsection (b)” and inserting
7 “subsection (e)”.

8 (6) In subsection (g), as redesignated by para-
9 graph (3), by striking “subsection (b)” and inserting
10 “subsection (e)”.

11 (7) In subsection (h), as redesignated by para-
12 graph (3), by striking “subsection (e)” and inserting
13 “subsection (g)”.

14 (8) In subsection (k)(2), as redesignated by
15 paragraph (2), by striking “Subsection (h)(6)” and
16 inserting “Subsection (j)(6)”.

17 (9) By amending subsection (l), as redesignated
18 by paragraph (2), to read as follows:

19 “(l) APPLICABILITY.—This section applies only to
20 States located in the Western Interconnection and States
21 located in the Eastern Interconnection and does not apply
22 to the States of Alaska or Hawaii, or to areas under the
23 authority of the Electric Reliability Council of Texas.”.

○