

113TH CONGRESS
2D SESSION

H. R. 3838

To amend the Internal Revenue Code of 1986 to provide a consumer renewable credit for utilities that sell intermittent renewable power.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2014

Mr. PAULSEN (for himself and Mr. KIND) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

A BILL

To amend the Internal Revenue Code of 1986 to provide a consumer renewable credit for utilities that sell intermittent renewable power.

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. CONSUMER RENEWABLE CREDIT.**

4 (a) BUSINESS CREDIT.—

5 (1) IN GENERAL.—Subpart D of part IV of
6 subchapter A of chapter 1 of the Internal Revenue
7 Code of 1986 is amended by adding at the end the
8 following new section:

1 **“SEC. 45S. CONSUMER RENEWABLE CREDIT.**

2 “(a) GENERAL RULE.—For purposes of section 38,
3 in the case of an eligible taxpayer, the consumer renewable
4 credit for any taxable year is an amount equal to the prod-
5 uct of—

6 “(1) the renewable portfolio factor of such eligi-
7 ble taxpayer, and

8 “(2) the number of kilowatt hours of renewable
9 electricity—

10 “(A) purchased or produced by such tax-
11 payer, and

12 “(B) sold by such taxpayer to a retail cus-
13 tomer during the taxable year and before Janu-
14 ary 1, 2020.

15 “(b) RENEWABLE PORTFOLIO FACTOR.—The renew-
16 able portfolio factor for an eligible taxpayer for any tax-
17 able year shall be determined in accordance with the fol-
18 lowing table:

“In the case of a renewable electricity percentage of:	The renewable portfolio factor is:
Less than 6 percent	zero cents
At least 6 percent but less than 8 percent	0.1 cents
At least 8 percent but less than 12 percent	0.2 cents
At least 12 percent but less than 16 percent	0.3 cents
At least 16 percent but less than 20 percent	0.4 cents
At least 20 percent but less than 24 percent	0.5 cents
Equal to or greater than 24 percent	0.6 cents.

1 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-
2 poses of this section—

3 “(1) ELIGIBLE TAXPAYER.—The term ‘eligible
4 taxpayer’ means an electric utility (as defined in sec-
5 tion 3(22) of the Federal Power Act, 16 U.S.C.
6 796(22)).

7 “(2) RENEWABLE ELECTRICITY.—The term ‘re-
8 newable electricity’ means electricity generated by—

9 “(A) any facility using wind to generate
10 such electricity, or

11 “(B) any facility using solar energy to gen-
12 erate such electricity.

13 “(3) RENEWABLE ELECTRICITY PERCENT-
14 AGE.—The term ‘renewable electricity percentage’
15 means, with respect to any taxable year, the percent-
16 age of an eligible taxpayer’s total sales of electricity
17 to retail customers that is derived from renewable
18 electricity (determined without regard to whether
19 such electricity was produced by the taxpayer).

20 “(4) APPLICATION OF OTHER RULES.—For
21 purposes of this section, rules similar to the rules of
22 paragraphs (1), (3), and (5) of section 45(e) shall
23 apply.

24 “(5) CREDIT ALLOWED ONLY WITH RESPECT
25 TO ONE ELIGIBLE ENTITY.—No credit shall be al-

1 lowed under subsection (a) with respect to renewable
2 electricity purchased from another eligible entity if a
3 credit has been allowed under this section or a pay-
4 ment has been made under section 6433 to such
5 other eligible entity.

6 “(6) CREDIT AND RENEWABLE ELECTRICITY
7 PERCENTAGE ENHANCEMENT.—

8 “(A) NATIVE AMERICAN WIND AND
9 SOLAR.—Any renewable electricity generated
10 from a wind or solar energy facility located on
11 Indian land, as defined in section 2601 of the
12 Energy Policy Act of 1992 (25 U.S.C. 3501),
13 shall for purposes of this section be considered
14 as twice the electricity production as is actually
15 produced from such facility.

16 “(B) ELECTRIC COOPERATIVE WIND AND
17 SOLAR.—Any renewable electricity generated
18 from a wind or solar energy facility owned en-
19 tirely by a mutual or cooperative electric com-
20 pany, as defined in section 501(c)(12), or sec-
21 tion 1381(a)(2)(C), shall for purposes of this
22 section be considered as one and one-half times
23 the electricity production as is actually pro-
24 duced from such facility.

1 “(d) COORDINATION WITH PAYMENTS.—The amount
2 of the credit determined under this section with respect
3 to any electricity shall be reduced to take into account any
4 payment provided with respect to such electricity solely by
5 reason of the application of section 6433.”.

6 (2) CREDIT MADE PART OF GENERAL BUSINESS
7 CREDIT.—Subsection (b) of section 38 of the Inter-
8 nal Revenue Code of 1986 is amended by striking
9 “plus” at the end of paragraph (35), by striking the
10 period at the end of paragraph (36) and inserting “,
11 plus”, and by adding at the end the following new
12 paragraph:

13 “(37) the consumer renewable credit deter-
14 mined under section 45S(a).”.

15 (3) SPECIFIED CREDIT.—Subparagraph (B) of
16 section 38(c)(4) of the Internal Revenue Code of
17 1986 is amended by redesignating clauses (vii)
18 through (ix) as clauses (viii) through (x), respec-
19 tively, and by inserting after clause (v) the following
20 new clause:

21 “(vi) the credit determined under sec-
22 tion 45S.”.

23 (4) CLERICAL AMENDMENT.—The table of sec-
24 tions for subpart D of part IV of subchapter A of
25 chapter 1 of the Internal Revenue Code of 1986 is

1 amended by adding at the end the following new
2 item:

“Sec. 45S. Consumer renewable credit.”.

3 (b) PAYMENTS IN LIEU OF CREDIT.—

4 (1) IN GENERAL.—Subchapter B of chapter 65
5 of the Internal Revenue Code of 1986 is amended by
6 adding at the end the following new section:

7 **“SEC. 6433. CONSUMER RENEWABLE CREDIT PAYMENTS.**

8 “(a) IN GENERAL.—If any eligible person sells re-
9 newable electricity to a retail customer, the Secretary shall
10 pay (without interest) to any such person who elects to
11 receive a payment an amount equal to the product of—

12 “(1) the renewable portfolio factor of such eligi-
13 ble person, and

14 “(2) the number of kilowatt hours of renewable
15 electricity—

16 “(A) purchased or produced by such per-
17 son, and

18 “(B) sold by such person in the trade or
19 business of such person to a retail customer be-
20 fore January 1, 2020.

21 “(b) TIMING OF PAYMENTS.—

22 “(1) IN GENERAL.—Except as provided in para-
23 graph (2), rules similar to the rules of section
24 6427(i)(1) shall apply for purposes of this section.

25 “(2) QUARTERLY PAYMENTS.—

“(A) IN GENERAL.—If, at the close of any quarter of the taxable year of any person (or fiscal year in the case of an eligible person that does not have a taxable year), at least \$750 is payable in the aggregate under subsection (a), to such person with respect to electricity purchased or produced during—

“(i) such quarter, or

“(ii) any prior quarter (for which no other claim has been filed) during such year,

a claim may be filed under this section with respect to such electricity.

“(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the earliest quarter included in the claim.

“(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

“(1) ELIGIBLE PERSON.—The term ‘eligible person’ means an electric utility (as defined in section 3(22) of the Federal Power Act, 16 U.S.C. 796(22)) or a Federal power marketing agency as defined in section 3(19) of the Federal Power Act.

1 “(2) OTHER DEFINITIONS.—Any term used in
2 this section which is also used in section 45S shall
3 have the meaning given such term under section
4 45S.

5 “(3) APPLICATION OF OTHER RULES.—For
6 purposes of this section, rules similar to the rules of
7 paragraphs (1) and (3) of section 45(e) shall apply.

8 “(d) PAYMENT DISALLOWED UNLESS AMOUNT
9 PASSED TO THIRD-PARTY GENERATORS CHARGED FOR
10 INTEGRATION COSTS.—

11 “(1) IN GENERAL.—In the case of renewable
12 electricity eligible for the payment under subsection
13 (a) that is purchased and not produced by an eligi-
14 ble person, no payment shall be made under this sec-
15 tion unless any charge the eligible person has as-
16 sessed the seller to recover the integration costs as-
17 sociated with such electricity has been reduced (but
18 not below zero) to the extent of the payment re-
19 ceived under subsection (a) associated with such
20 electricity.

21 “(2) DEFINITIONS.—For purposes of paragraph
22 (1), charges intended to recover integration costs do
23 not include amounts paid by the producer of the
24 electricity for interconnection facilities, distribution
25 upgrades, network upgrades, or stand-alone network

1 upgrades as those terms have been defined by the
2 Federal Energy Regulatory Commission in its
3 Standard Interconnection Procedures.

4 “(e) PAYMENT ALLOWED FOR SPECIAL GENERATING
5 AND TRANSMITTING ENTITIES.—

6 “(1) IN GENERAL.—Notwithstanding subsection
7 (a)(1)(B), an entity that is a special generating and
8 transmitting entity shall be eligible for a payment
9 under this section for renewable electricity it trans-
10 mits, regardless of whether such utility purchased or
11 sold such electricity for its customers.

12 “(2) DEFINITIONS.—For purposes of this sub-
13 section, the term ‘special generating and transmit-
14 ting entity’ means—

15 “(A) an entity that is primarily engaged in
16 marketing electricity and—

17 “(i) provides transmission service for
18 over four thousand megawatts of renewable
19 generating facilities, as determined by ref-
20 erence to the machine or nameplate capac-
21 ity thereof, and

22 “(ii) transmits the majority of its re-
23 newable electricity transmitted to cus-
24 tomers located outside the region it serves,
25 or

1 “(B) an entity that is a generation and
2 transmission cooperative, which engages pri-
3 marily in providing wholesale electric service to
4 its members, generally consisting of distribution
5 cooperatives.”.

6 (2) CLERICAL AMENDMENT.—The table of sec-
7 tions for subpart B of chapter 65 of the Internal
8 Revenue Code of 1986 is amended by adding at the
9 end the following new item:

 “Sec. 6433. Renewable electricity integration payments.”.

10 (c) EFFECTIVE DATE.—The amendments made by
11 this section shall apply to electricity sold to retail cus-
12 tomers after the date of the enactment of this Act.

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