

115TH CONGRESS
2D SESSION

S. 186

AN ACT

To amend the Federal Power Act to provide that any inaction by the Federal Energy Regulatory Commission that allows a rate change to go into effect shall be treated as an order by the Commission for purposes of rehearing and court review.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fair Ratepayer Ac-
3 countability, Transparency, and Efficiency Standards
4 Act” or the “Fair RATES Act”.

5 **SEC. 2. AMENDMENT TO THE FEDERAL POWER ACT.**

6 Section 205 of the Federal Power Act (16 U.S.C.
7 824d) is amended by adding at the end the following:

8 “(g) INACTION OF COMMISSIONERS.—

9 “(1) IN GENERAL.—If the Commission permits
10 the expiration of the 60-day period established under
11 the first sentence of subsection (d) because the
12 members of the Commission are divided two against
13 two as to the lawfulness of the change, as a result
14 of vacancy, incapacity, or recusal on the Commis-
15 sion—

16 “(A) the failure to act by the Commission
17 shall be considered to be an order issued by the
18 Commission accepting the change for purposes
19 of section 313(a); and

20 “(B) there shall be added to the record of
21 the proceeding of the Commission—

22 “(i) the proposed order;

23 “(ii) notice of the division of the Com-
24 missioners with respect to the proposed
25 order; and

1 “(iii) the written statement of each
2 member of the Commission explaining the
3 views of the Commissioner with respect to
4 the proposed order.

5 “(2) APPEAL.—If any party to a proceeding of
6 the Commission described in paragraph (1) seeks a
7 rehearing under section 313(a) and the Commission
8 fails to act on the merits of the rehearing request by
9 the date that is 30 days after the date of the rehear-
10 ing request because the members of the Commission
11 are divided two against two, as a result of vacancy,
12 incapacity, or recusal on the Commission, any party
13 that sought the rehearing may appeal under section
14 313(b).”.

Passed the Senate September 4, 2018.

Attest:

Secretary.

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