

115TH CONGRESS  
2D SESSION

# S. 186

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## 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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