

(I) to share transformers and equipment;

(II) to develop plans for next generation transformers; and

(III) to plan for surge and long-term manufacturing of, and long-term standardization of, transformer designs.

**(B) Protection of information**

Information that is provided to, generated by, or collected by the Secretary under subparagraph (A) shall be considered to be critical electric infrastructure information under section 8240-1 of title 16.

**(C) Report**

Not later than 180 days after November 15, 2021, the Secretary shall submit to Congress a report describing the results of the assessment carried out under subparagraph (A).

(Pub. L. 117-58, div. D, title I, §40103, Nov. 15, 2021, 135 Stat. 928.)

**Statutory Notes and Related Subsidiaries**

**WAGE RATE REQUIREMENTS**

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of this title.

**§ 18713. Transmission facilitation program**

**(a) Definitions**

In this section:

**(1) Capacity contract**

The term “capacity contract” means a contract entered into by the Secretary and an eligible entity under subsection (e)(1)(A) for the right to the use of the transmission capacity of an eligible project.

**(2) Eligible electric power transmission line**

The term “eligible electric power transmission line” means an electric power transmission line that is capable of transmitting not less than—

(A) 1,000 megawatts; or

(B) in the case of a project that consists of upgrading an existing transmission line or constructing a new transmission line in an existing transmission, transportation, or telecommunications infrastructure corridor, 500 megawatts.

**(3) Eligible entity**

The term “eligible entity” means an entity seeking to carry out an eligible project.

**(4) Eligible project**

The term “eligible project” means a project (including any related facility)—

(A) to construct a new or replace an existing eligible electric power transmission line;

(B) to increase the transmission capacity of an existing eligible electric power transmission line; or

(C) to connect an isolated microgrid to an existing transmission, transportation, or telecommunications infrastructure corridor located in Alaska, Hawaii, or a territory of the United States.

**(5) Fund**

The term “Fund” means the Transmission Facilitation Fund established by subsection (d)(1).

**(6) Program**

The term “program” means the Transmission Facilitation Program established by subsection (b).

**(7) Related facility**

**(A) In general**

The term “related facility” means a facility related to an eligible project described in paragraph (4).

**(B) Exclusions**

The term “related facility” does not include—

(i) facilities used primarily to generate electric energy; or

(ii) facilities used in the local distribution of electric energy.

**(b) Establishment**

There is established a program, to be known as the “Transmission Facilitation Program”, under which the Secretary shall facilitate the construction of electric power transmission lines and related facilities in accordance with subsection (e).

**(c) Applications**

**(1) In general**

To be eligible for assistance under this section, an eligible entity shall submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

**(2) Procedures**

The Secretary shall establish procedures for the solicitation and review of applications from eligible entities.

**(d) Funding**

**(1) Transmission Facilitation Fund**

There is established in the Treasury a fund, to be known as the “Transmission Facilitation Fund”, consisting of—

(A) all amounts received by the Secretary, including receipts, collections, and recoveries, from any source relating to expenses incurred by the Secretary in carrying out the program, including—

(i) costs recovered pursuant to paragraph (4);

(ii) amounts received as repayment of a loan issued to an eligible entity under subsection (e)(1)(B); and

(iii) amounts contributed by eligible entities for the purpose of carrying out an eligible project with respect to which the Secretary is participating with the eligible entity under subsection (e)(1)(C);

(B) all amounts borrowed from the Secretary of the Treasury by the Secretary for the program under paragraph (2); and

(C) any amounts appropriated to the Secretary for the program.

**(2) Borrowing authority**

The Secretary of the Treasury may, without further appropriation and without fiscal year

limitation, loan to the Secretary on such terms as may be fixed by the Secretary and the Secretary of the Treasury, such sums as, in the judgment of the Secretary, are from time to time required for the purpose of carrying out the program, not to exceed, in the aggregate (including deferred interest), \$2,500,000,000 in outstanding repayable balances at any 1 time.

**(3) Authorization of appropriations**

There is authorized to be appropriated to the Secretary to carry out the program, including for any administrative expenses of carrying out the program that are not recovered under paragraph (4), \$10,000,000 for each of fiscal years 2022 through 2026.

**(4) Cost recovery**

**(A) In general**

Except as provided in subparagraph (B), the cost of any facilitation activities carried out by the Secretary under subsection (e)(1) shall be collected—

(i) from eligible entities receiving the benefit of the applicable facilitation activity, on a schedule to be determined by the Secretary; or

(ii) with respect to a contracted transmission capacity under subsection (e)(1)(A) through rates charged for the use of the contracted transmission capacity.

**(B) Forgiveness of balances**

**(i) Termination or end of useful life**

If, at the end of the useful life of an eligible project or the termination of a capacity contract under subsection (f)(5), there is a remaining balance owed to the Treasury under this section, the balance shall be forgiven.

**(ii) Unconstructed projects**

Funds expended to study projects that are considered pursuant to this section but that are not constructed shall be forgiven.

**(C) Recovery of costs of eligible projects**

The Secretary may collect the costs of any activities carried out by the Secretary with respect to an eligible project in which the Secretary participates with an eligible entity under subsection (e)(1)(C) through rates charged to customers benefitting from the new transmission capability provided by the eligible project.

**(e) Facilitation of eligible projects**

**(1) In general**

To facilitate eligible projects, the Secretary may—

(A) subject to subsections (f) and (i), enter into a capacity contract with respect to an eligible project prior to the date on which the eligible project is completed;

(B) subject to subsections (g) and (i), issue a loan to an eligible entity for the costs of carrying out an eligible project; or

(C) subject to subsections (h) and (i), participate with an eligible entity in designing, developing, constructing, operating, maintaining, or owning an eligible project.

**(2) Requirement**

The provision and receipt of assistance for an eligible project under paragraph (1) shall be subject to such terms and conditions as the Secretary determines to be appropriate—

(A) to ensure the success of the program; and

(B) to protect the interests of the United States.

**(f) Capacity contracts**

**(1) Purpose**

In entering into capacity contracts under subsection (e)(1)(A), the Secretary shall seek to enter into capacity contracts that will encourage other entities to enter into contracts for the transmission capacity of the eligible project.

**(2) Payment**

The amount paid by the Secretary to an eligible entity under a capacity contract for the right to the use of the transmission capacity of an eligible project shall be—

(A) the fair market value for the use of the transmission capacity, as determined by the Secretary, taking into account, as the Secretary determines to be necessary, the comparable value for the use of the transmission capacity of other electric power transmission lines; and

(B) on a schedule and in such divided amounts, which may be a single amount, that the Secretary determines are likely to facilitate construction of the eligible project, taking into account standard industry practice and factors specific to each applicant, including, as applicable—

(i) potential review by a State regulatory entity of the revenue requirement of an electric utility; and

(ii) the financial model of an independent transmission developer.

**(3) Limitations**

A capacity contract shall—

(A) be for a term of not more than 40 years; and

(B) be for not more than 50 percent of the total proposed transmission capacity of the applicable eligible project.

**(4) Transmission marketing**

**(A) In general**

If the Secretary has not terminated a capacity contract under paragraph (5) before the applicable eligible project enters into service, the Secretary may enter into 1 or more contracts with a third party to market the transmission capacity of the eligible project to which the Secretary holds rights under the capacity contract.

**(B) Return**

Subject to subparagraph (D), the Secretary shall seek to ensure that any contract entered into under subparagraph (A) maximizes the financial return to the Federal Government.

**(C) Competitive solicitation**

The Secretary shall only select third parties for contracts under this paragraph through a competitive solicitation.

**(D) Requirement**

The marketing of capacity pursuant to this subsection, including any marketing by a third party under subparagraph (A), shall be undertaken consistent with the requirements of the Federal Power Act (16 U.S.C. 791a et seq.).

**(5) Termination****(A) In general**

The Secretary shall seek to terminate a capacity contract as soon as practicable after determining that sufficient transmission capacity of the eligible project has been secured by other entities to ensure the long-term financial viability of the eligible project, including through 1 or more transfers under subparagraph (B).

**(B) Transfer**

On payment to the Secretary by a third party for transmission capacity to which the Secretary has rights under a capacity contract, the Secretary may transfer the rights to that transmission capacity to that third party.

**(C) Relinquishment**

On payment to the Secretary by the applicable eligible entity for transmission capacity to which the Secretary has rights under a capacity contract, the Secretary may relinquish the rights to that transmission capacity to the eligible entity.

**(D) Requirement**

A payment under subparagraph (B) or (C) shall be in an amount sufficient for the Secretary to recover any remaining costs incurred by the Secretary with respect to the quantity of transmission capacity affected by the transfer under subparagraph (B) or the relinquishment under subparagraph (C), as applicable.

**(6) Other Federal capacity positions**

The existence of a capacity contract does not preclude a Federal entity, including a Federal power marketing administration, from otherwise securing transmission capacity at any time from an eligible project, to the extent that the Federal entity is authorized to secure that transmission capacity.

**(7) Form of financial assistance**

Entering into a capacity contract under subsection (e)(1)(A) shall be considered a form of financial assistance described in section 1508.1(q)(1)(vii) of title 40, Code of Federal Regulations (as in effect on November 15, 2021).

**(8) Transmission planning region consultation**

Prior to entering into a capacity contract under this subsection, the Secretary shall consult with the relevant transmission planning region regarding the transmission planning region's identification of needs, and the Secretary shall minimize, to the extent possible, duplication or conflict with the transmission planning region's needs determination and selection of projects that meet such needs.

**(g) Interest rate on loans**

The rate of interest to be charged in connection with any loan made by the Secretary to an

eligible entity under subsection (e)(1)(B) shall be fixed by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date of the loan.

**(h) Public-private partnerships**

The Secretary may participate with an eligible entity with respect to an eligible project under subsection (e)(1)(C) if the Secretary determines that the eligible project—

(1)(A) is located in an area designated as a national interest electric transmission corridor pursuant to section 216(a) of the Federal Power Act [16 U.S.C. 824p(a)]; or

(B) is necessary to accommodate an actual or projected increase in demand for electric transmission capacity across more than 1 State or transmission planning region;

(2) is consistent with efficient and reliable operation of the transmission grid;

(3) will be operated in conformance with prudent utility practices;

(4) will be operated in conformance with the rules of—

(A) a Transmission Organization (as defined in section 3 of the Federal Power Act (16 U.S.C. 796)), if applicable; or

(B) a regional reliability organization; and

(5) is not duplicative of the functions of existing transmission facilities that are the subject of ongoing siting and related permitting proceedings.

**(i) Certification**

Prior to taking action to facilitate an eligible project under subparagraph (A), (B), or (C) of subsection (e)(1), the Secretary shall certify that—

(1) the eligible project is in the public interest;

(2) the eligible project is unlikely to be constructed in as timely a manner or with as much transmission capacity in the absence of facilitation under this section, including with respect to an eligible project for which a Federal investment tax credit may be allowed; and

(3) it is reasonable to expect that the proceeds from the eligible project will be adequate, as applicable—

(A) to recover the cost of a capacity contract entered into under subsection (e)(1)(A);

(B) to repay a loan provided under subsection (e)(1)(B); or

(C) to repay any amounts borrowed from the Secretary of the Treasury under subsection (d)(2).

**(j) Other authorities, limitations, and effects****(1) Participation**

The Secretary may permit other entities to participate in the financing, construction, and ownership of eligible projects facilitated under this section.

**(2) Operations and maintenance**

Facilitation by the Secretary of an eligible project under this section does not create any obligation on the part of the Secretary to operate or maintain the eligible project.

**(3) Federal facilities**

For purposes of cost recovery under subsection (d)(4) and repayment of a loan issued

under subsection (e)(1)(B), each eligible project facilitated by the Secretary under this section shall be treated as separate and distinct from—

- (A) each other eligible project; and
- (B) all other Federal power and transmission facilities.

**(4) Effect on ancillary services authority and obligations**

Nothing in this section confers on the Secretary or any Federal power marketing administration any additional authority or obligation to provide ancillary services to users of transmission facilities constructed or upgraded under this section.

**(5) Effect on Western Area Power Administration projects**

Nothing in this section affects—

- (A) any pending project application before the Western Area Power Administration under section 16421a of this title; or
- (B) any agreement entered into by the Western Power Administration under that section.

**(6) Third-party finance**

Nothing in this section precludes an eligible project facilitated under this section from being eligible as a project under section 16421 of this title.

**(7) Limitation on loans**

An eligible project may not be the subject of both—

- (A) a loan under subsection (e)(1)(B); and
- (B) a Federal loan under section 16421a of this title.

**(8) Considerations**

In evaluating eligible projects for possible facilitation under this section, the Secretary shall prioritize projects that, to the maximum extent practicable—

- (A) use technology that enhances the capacity, efficiency, resiliency, or reliability of an electric power transmission system, including—
  - (i) reconductoring of an existing electric power transmission line with advanced conductors; and
  - (ii) hardware or software that enables dynamic line ratings, advanced power flow control, or grid topology optimization;
- (B) will improve the resiliency and reliability of an electric power transmission system;
- (C) facilitate interregional transfer capacity that supports strong and equitable economic growth; and
- (D) contribute to national or subnational goals to lower electricity sector greenhouse gas emissions.

(Pub. L. 117–58, div. D, title I, §40106, Nov. 15, 2021, 135 Stat. 934.)

**Editorial Notes**

REFERENCES IN TEXT

The Federal Power Act, referred to in subsec. (f)(4)(D), is act June 10, 1920, ch. 285, 41 Stat. 1063, which

is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

**Statutory Notes and Related Subsidiaries**

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of this title.

PART A–1—ELECTRIC TRANSMISSION

**§ 18715. Transmission facility financing**

**(a) Appropriation**

In addition to amounts otherwise available, there is appropriated to the Secretary for fiscal year 2022, out of any money in the Treasury not otherwise appropriated, \$2,000,000,000, to remain available through September 30, 2030, to carry out this section: *Provided*, That the Secretary shall not enter into any loan agreement pursuant to this section that could result in disbursements after September 30, 2031.

**(b) Use of funds**

The Secretary shall use the amounts made available by subsection (a) to carry out a program to pay the costs of direct loans to non-Federal borrowers, subject to the limitations that apply to loan guarantees under section 50141(d) and under such terms and conditions as the Secretary determines to be appropriate, for the construction or modification of electric transmission facilities designated by the Secretary to be necessary in the national interest under section 824p(a) of title 16.

**(c) Loans**

A direct loan provided under this section—

- (1) shall have a term that does not exceed the lesser of—
  - (A) 90 percent of the projected useful life, in years, of the eligible transmission facility; and
  - (B) 30 years;
- (2) shall not exceed 80 percent of the project costs; and
- (3) shall, on first issuance, be subject to the condition that the direct loan is not subordinate to other financing.

**(d) Interest rates**

A direct loan provided under this section shall bear interest at a rate determined by the Secretary, taking into consideration market yields on outstanding marketable obligations of the United States of comparable maturities as of the date on which the direct loan is made.

**(e) Definition of direct loan**

In this section, the term “direct loan” has the meaning given the term in section 661a of title 2.

(Pub. L. 117–169, title V, §50151, Aug. 16, 2022, 136 Stat. 2046.)