

109TH CONGRESS
1ST SESSION

H. R. 1481

To ensure reliability of electric service to provide for expansion of electricity transmission networks in order to support competitive electricity markets to modernize regulation, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 5, 2005

Mr. WYNN (for himself and Mrs. MYRICK) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, 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 ensure reliability of electric service to provide for expansion of electricity transmission networks in order to support competitive electricity markets to modernize regulation, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Interstate Transmission Act”.

6 (b) TABLE OF CONTENTS.—The table of contents is
7 as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.
- Sec. 3. Transmission infrastructure investment.
- Sec. 3. Electric reliability standards.
- Sec. 5. Disposition of property.
- Sec. 6. Regional transmission organizations.
- Sec. 7. Siting of interstate electric transmission facilities.
- Sec. 8. Electric transmission property treated as 15-year property.

1 **SEC. 2. FINDINGS.**

2 Congress finds as follows:

3 (1) The expansion, enhancement, and improve-
4 ment of transmission facilities are necessary to
5 maintain and improve reliability of electric service.

6 (2) Transmission networks are the backbone of
7 reliable delivery of electric energy, increased inter-
8 state commerce in electricity, and competitive power
9 markets.

10 (3) Wholesale electric competition, already in
11 effect across the nation, and retail electric competi-
12 tion, adopted by nearly half of the States, depend on
13 adequate transmission networks to benefit electric
14 consumers.

15 (4) To maintain and improve reliability of elec-
16 tric service and support competitive power markets,
17 the economics of the business of electric trans-
18 mission and the regulatory structures applicable
19 thereto must be improved.

1 **SEC. 3. TRANSMISSION INFRASTRUCTURE INVESTMENT.**

2 Part II of the Federal Power Act (16 U.S.C. 824 et
3 seq.) is amended by adding at the end the following:

4 **“SEC. 215. TRANSMISSION INFRASTRUCTURE INVESTMENT.**

5 “(a) **RULEMAKING REQUIREMENT.**—Within 1 year
6 after enactment of this section, the Commission shall es-
7 tablish, by rule, incentive-based, performance-based, par-
8 ticipant-funded, and cost-based (including, but not limited
9 to performance-based) rate treatments for the trans-
10 mission of electric energy in interstate commerce by public
11 utilities to benefit consumers by ensuring reliability and
12 reducing the cost of delivered power by reducing trans-
13 mission congestion. Such rule shall—

14 “(1) promote reliable and economically efficient
15 transmission and generation of electricity by pro-
16 moting capital investment in the enlargement, im-
17 provement, maintenance and operation of facilities
18 for the transmission of electric energy in interstate
19 commerce;

20 “(2) provide a return on equity that attracts
21 new investment in transmission facilities (including
22 related transmission technologies);

23 “(3) encourage deployment of transmission
24 technologies and other measures to increase the ca-
25 pacity and efficiency of existing transmission facili-
26 ties and improve the operation of such facilities; and

1 “(4) allow recovery of all prudently incurred
2 costs necessary to comply with mandatory reliability
3 standards issued pursuant to section 216 of this
4 Act.

5 The Commission may, from time to time, revise such rule.

6 “(b) TRANSMISSION RATES AND RTO PARTICIPA-
7 TION.— The Commission shall provide for—

8 “(1) recovery of all prudently incurred costs to
9 develop and participate in any proposed or approved
10 RTO, ISO, or independent transmission company;

11 “(2) recovery of all costs previously approved by
12 a State commission which exercised jurisdiction over
13 the transmission facilities prior to the utility’s par-
14 ticipation in the RTO or ISO, including costs nec-
15 essary to honor preexisting transmission service con-
16 tracts, in a manner which does not reduce the reve-
17 nues the utility receives for transmission services for
18 a reasonable transition period after the utility joins
19 the RTO or ISO;

20 “(3) recovery as an expense in rates of the
21 costs prudently incurred to conduct transmission
22 planning and reliability activities, including the costs
23 of participating in RTO, ISO and other regional
24 planning activities and design, study and other

1 precertification costs involved in seeking permits and
2 approvals for proposed transmission facilities;

3 “(4) a current return in rates for construction
4 work in progress for transmission facilities and full
5 recovery of prudently incurred costs for constructing
6 transmission facilities;

7 “(5) recovery of all prudently incurred capital,
8 operation, and maintenance costs, and other costs
9 necessary to operate and maintain transmission
10 service, including generation and transmission based
11 ancillary services and taxes;

12 “(6) various rate structures, including formula
13 transmission rates; and

14 “(7) a maximum 15 year accelerated book de-
15preciation on new transmission facilities for rate
16treatment purposes.

17 The Commission shall ensure that any costs recoverable
18 pursuant to this subsection may be recovered by such util-
19ity through the transmission rates charged by such utility
20 or through the transmission rates charged by the RTO
21 or ISO that provides transmission service to such utility.

22 “(c) JUST AND REASONABLE RATES.—All rates ap-
23proved under the rules adopted pursuant to this section,
24 including any revisions to such rules, are subject to the
25 requirement of sections 205 and 206 that all rates,

1 charges, terms, and conditions be just and reasonable and
2 not unduly discriminatory or preferential.”.

3 **SEC. 4. ELECTRIC RELIABILITY STANDARDS.**

4 (a) IN GENERAL.—Part II of the Federal Power Act
5 (16 U.S.C. 824 et seq.) is amended by adding the fol-
6 lowing new section at the end thereof:

7 **“SEC. 216. ELECTRIC RELIABILITY.**

8 “(a) DEFINITIONS.—For purposes of this section—

9 “(1) The term ‘bulk-power system’ means—

10 “(A) facilities and control systems nec-
11 essary for operating an interconnected electric
12 energy transmission network (or any portion
13 thereof); and

14 “(B) electric energy from generation facili-
15 ties needed to maintain transmission system re-
16 liability.

17 The term does not include facilities used in the local
18 distribution of electric energy.

19 “(2) The terms ‘Electric Reliability Organiza-
20 tion’ and ‘ERO’ mean the organization certified by

21 “(3) The term ‘reliability standard’ means a re-
22 quirement, approved by the Commission under this
23 section, to provide for reliable operation of the bulk-
24 power system. The term includes requirements for
25 the operation of existing bulk-power system facilities

1 and the design of planned additions or modifications
2 to such facilities to the extent necessary to provide
3 for reliable operation of the bulk-power system, but
4 the term does not include any requirement to en-
5 large such facilities or to construct new transmission
6 capacity or generation capacity.

7 “(4) The term ‘reliable operation’ means oper-
8 ating the elements of the bulk-power system within
9 equipment and electric system thermal, voltage, and
10 stability limits so that instability, uncontrolled sepa-
11 ration, or cascading failures of such system will not
12 occur as a result of a sudden disturbance or unan-
13 ticipated failure of system elements.

14 “(5) The term ‘Interconnection’ means a geo-
15 graphic area in which the operation of bulk-power
16 system components is synchronized such that the
17 failure of one or more of such components may ad-
18 versely affect the ability of the operators of other
19 components within the system to maintain reliable
20 operation of the facilities within their control.

21 “(6) The term ‘transmission organization’
22 means a regional transmission organization, inde-
23 pendent system operator, independent transmission
24 provider, or other transmission organization finally

1 approved by the Commission for the operation of
2 transmission facilities.

3 “(7) The term ‘regional entity’ means an entity
4 having enforcement authority pursuant to subsection
5 (e)(4).

6 the Commission under subsection (c) the purpose of which
7 is to establish and enforce reliability standards for the
8 bulk-power system, subject to Commission review.

9 “(b) JURISDICTION AND APPLICABILITY.—(1) The
10 Commission shall have jurisdiction, within the United
11 States, over the ERO certified by the Commission under
12 subsection (c), any regional entities, and all users, owners,
13 and operators of the bulk-power system, including but not
14 limited to the entities described in section 201(f), for pur-
15 poses of approving reliability standards established under
16 this section and enforcing compliance with this section. All
17 users, owners, and operators of the bulk-power system
18 shall comply with reliability standards that take effect
19 under this section.

20 “(2) The Commission shall issue a final rule to imple-
21 ment the requirements of this section not later than 180
22 days after the date of enactment of this section.

23 “(c) CERTIFICATION.—Following the issuance of a
24 Commission rule under subsection (b)(2), any person may
25 submit an application to the Commission for certification

1 as the Electric Reliability Organization (ERO). The Com-
2 mission may certify one such ERO if the Commission de-
3 termines that such ERO—

4 “(1) has the ability to develop and enforce, sub-
5 ject to subsection (e)(2), reliability standards that
6 provide for an adequate level of reliability of the
7 bulk-power system; and

8 “(2) has established rules that—

9 “(A) assure its independence of the users
10 and owners and operators of the bulk-power
11 system, while assuring fair stakeholder rep-
12 resentation in the selection of its directors and
13 balanced decisionmaking in any ERO com-
14 mittee or subordinate organizational structure;

15 “(B) allocate equitably reasonable dues,
16 fees, and other charges among end users for all
17 activities under this section;

18 “(C) provide fair and impartial procedures
19 for enforcement of reliability standards through
20 the imposition of penalties in accordance with
21 subsection (e) (including limitations on activi-
22 ties, functions, or operations, or other appro-
23 priate sanctions);

24 “(D) provide for reasonable notice and op-
25 portunity for public comment, due process,

1 openness, and balance of interests in developing
2 reliability standards and otherwise exercising its
3 duties; and

4 “(E) provide for taking, after certification,
5 appropriate steps to gain recognition in Canada
6 and Mexico.

7 “(d) RELIABILITY STANDARDS.—(1) The Electric
8 Reliability Organization shall file each reliability standard
9 or modification to a reliability standard that it proposes
10 to be made effective under this section with the Commis-
11 sion.

12 “(2) The Commission may approve by rule or order
13 a proposed reliability standard or modification to a reli-
14 ability standard if it determines that the standard is just,
15 reasonable, not unduly discriminatory or preferential, and
16 in the public interest. The Commission shall give due
17 weight to the technical expertise of the Electric Reliability
18 Organization with respect to the content of a proposed
19 standard or modification to a reliability standard and to
20 the technical expertise of a regional entity organized on
21 an Interconnection-wide basis with respect to a reliability
22 standard to be applicable within that Interconnection, but
23 shall not defer with respect to the effect of a standard
24 on competition. A proposed standard or modification shall
25 take effect upon approval by the Commission.

1 “(3) The Electric Reliability Organization shall
2 rebuttably presume that a proposal from a regional entity
3 organized on an Interconnection-wide basis for a reliability
4 standard or modification to a reliability standard to be ap-
5 plicable on an Interconnection-wide basis is just, reason-
6 able, and not unduly discriminatory or preferential, and
7 in the public interest.

8 “(4) The Commission shall remand to the Electric
9 Reliability Organization for further consideration a pro-
10 posed reliability standard or a modification to a reliability
11 standard that the Commission disapproves in whole or in
12 part.

13 “(5) The Commission, upon its own motion or upon
14 complaint, may order the Electric Reliability Organization
15 to submit to the Commission a proposed reliability stand-
16 ard or a modification to a reliability standard that ad-
17 dresses a specific matter if the Commission considers such
18 a new or modified reliability standard appropriate to carry
19 out this section.

20 “(6) The final rule adopted under subsection (b)(2)
21 shall include fair processes for the identification and time-
22 ly resolution of any conflict between a reliability standard
23 and any function, rule, order, tariff, rate schedule, or
24 agreement accepted, approved, or ordered by the Commis-
25 sion applicable to a transmission organization. Such trans-

1 mission organization shall continue to comply with such
2 function, rule, order, tariff, rate schedule, or agreement
3 accepted, approved, or ordered by the Commission until—

4 “(A) the Commission finds a conflict exists be-
5 tween a reliability standard and any such provision;

6 “(B) the Commission orders a change to such
7 provision pursuant to section 206 of this part; and

8 “(C) the ordered change becomes effective
9 under this part.

10 If the Commission determines that a reliability standard
11 needs to be changed as a result of such a conflict, it shall
12 order the ERO to develop and file with the Commission
13 a modified reliability standard under paragraph (4) or (5)
14 of this subsection.

15 “(e) ENFORCEMENT.—(1) The ERO may impose,
16 subject to paragraph (2), a penalty on a user or owner
17 or operator of the bulk-power system for a violation of a
18 reliability standard approved by the Commission under
19 subsection (d) if the ERO, after notice and an opportunity
20 for a hearing—

21 “(A) finds that the user or owner or operator
22 has violated a reliability standard approved by the
23 Commission under subsection (d); and

24 “(B) files notice and the record of the pro-
25 ceeding with the Commission.

1 “(2) A penalty imposed under paragraph (1) may
2 take effect not earlier than the 31st day after the electric
3 reliability organization files with the Commission notice of
4 the penalty and the record of proceedings. Such penalty
5 shall be subject to review by the Commission, on its own
6 motion or upon application by the user, owner, or operator
7 that is the subject of the penalty filed within 30 days after
8 the date such notice is filed with the Commission. Applica-
9 tion to the Commission for review, or the initiation of re-
10 view by the Commission on its own motion, shall not oper-
11 ate as a stay of such penalty unless the Commission other-
12 wise orders upon its own motion or upon application by
13 the user, owner, or operator that is the subject of such
14 penalty. In any proceeding to review a penalty imposed
15 under paragraph (1), the Commission, after notice and op-
16 portunity for hearing (which hearing may consist solely
17 of the record before the electric reliability organization and
18 opportunity for the presentation of supporting reasons to
19 affirm, modify, or set aside the penalty), shall by order
20 affirm, set aside, reinstate, or modify the penalty, and,
21 if appropriate, remand to the electric reliability organiza-
22 tion for further proceedings. The Commission shall imple-
23 ment expedited procedures for such hearings.

24 “(3) On its own motion or upon complaint, the Com-
25 mission may order compliance with a reliability standard

1 and may impose a penalty against a user or owner or oper-
2 ator of the bulk-power system, if the Commission finds,
3 after notice and opportunity for a hearing, that the user
4 or owner or operator of the bulk-power system has en-
5 gaged or is about to engage in any acts or practices that
6 constitute or will constitute a violation of a reliability
7 standard.

8 “(4) The Commission shall establish regulations au-
9 thorizing the ERO to enter into an agreement to delegate
10 authority to a regional entity for the purpose of proposing
11 reliability standards to the ERO and enforcing reliability
12 standards under paragraph (1) if—

13 “(A) the regional entity is governed by—

14 “(i) an independent board;

15 “(ii) a balanced stakeholder board; or

16 “(iii) a combination independent and bal-
17 anced stakeholder board;

18 “(B) the regional entity otherwise satisfies the
19 provisions of subsection (c)(1) and (2); and

20 “(C) the agreement promotes effective and effi-
21 cient administration of bulk-power system reliability.

22 The Commission may modify such delegation. The ERO
23 and the Commission shall rebuttably presume that a pro-
24 posal for delegation to a regional entity organized on an
25 Interconnection-wide basis promotes effective and efficient

1 administration of bulk-power system reliability and should
2 be approved. Such regulation may provide that the Com-
3 mission may assign the ERO's authority to enforce reli-
4 ability standards under paragraph (1) directly to a re-
5 gional entity consistent with the requirements of this para-
6 graph.

7 “(5) The Commission may take such action as is nec-
8 essary or appropriate against the ERO or a regional entity
9 to ensure compliance with a reliability standard or any
10 Commission order affecting the ERO or a regional entity.

11 “(6) Any penalty imposed under this section shall
12 bear a reasonable relation to the seriousness of the viola-
13 tion and shall take into consideration the efforts of such
14 user, owner, or operator to remedy the violation in a time-
15 ly manner.

16 “(f) CHANGES IN ELECTRICITY RELIABILITY ORGA-
17 NIZATION RULES.—The Electric Reliability Organization
18 shall file with the Commission for approval any proposed
19 rule or proposed rule change, accompanied by an expla-
20 nation of its basis and purpose. The Commission, upon
21 its own motion or complaint, may propose a change to the
22 rules of the Electric Reliability Organization. A proposed
23 rule or proposed rule change shall take effect upon a find-
24 ing by the Commission, after notice and opportunity for
25 comment, that the change is just, reasonable, not unduly

1 discriminatory or preferential, is in the public interest, and
2 satisfies the requirements of subsection (c).

3 “(g) RELIABILITY REPORTS.—The Electric Reli-
4 ability Organization shall conduct periodic assessments of
5 the reliability and adequacy of the bulk-power system in
6 North America.

7 “(h) COORDINATION WITH CANADA AND MEXICO.—
8 The President is urged to negotiate international agree-
9 ments with the governments of Canada and Mexico to pro-
10 vide for effective compliance with reliability standards and
11 the effectiveness of the Electric Reliability Organization
12 in the United States and Canada or Mexico.

13 “(i) SAVINGS PROVISIONS.—(1) The Electric Reli-
14 ability Organization shall have authority to develop and
15 enforce compliance with reliability standards for only the
16 bulk-power system.

17 “(2) This section does not authorize the Electric Reli-
18 ability Organization or the Commission to order the con-
19 struction of additional generation or transmission capacity
20 or to set and enforce compliance with standards for ade-
21 quacy or safety of electric facilities or services.

22 “(3) Nothing in this section shall be construed to pre-
23 empt any authority of any State to take action to ensure
24 the safety, adequacy, and reliability of electric service
25 within that State, as long as such action is not incon-

1 sistent with any reliability standard, except that the State
2 of New York may establish rules that result in greater
3 reliability within that State, as long as such action does
4 not result in lesser reliability outside the State than that
5 provided by the reliability standards.

6 “(4) Within 90 days of the application of the Electric
7 Reliability Organization or other affected party, and after
8 notice and opportunity for comment, the Commission shall
9 issue a final order determining whether a State action is
10 inconsistent with a reliability standard, taking into consid-
11 eration any recommendation of the Electric Reliability Or-
12 ganization.

13 “(5) The Commission, after consultation with the
14 Electric Reliability Organization and the State taking ac-
15 tion, may stay the effectiveness of any State action, pend-
16 ing the Commission’s issuance of a final order.

17 “(j) REGIONAL ADVISORY BODIES.—The Commis-
18 sion shall establish a regional advisory body on the petition
19 of at least two-thirds of the States within a region that
20 have more than one-half of their electric load served within
21 the region. A regional advisory body shall be composed of
22 one member from each participating State in the region,
23 appointed by the Governor of each State, and may include
24 representatives of agencies, States, and provinces outside
25 the United States. A regional advisory body may provide

1 advice to the Electric Reliability Organization, a regional
2 entity, or the Commission regarding the governance of an
3 existing or proposed regional entity within the same re-
4 gion, whether a standard proposed to apply within the re-
5 gion is just, reasonable, not unduly discriminatory or pref-
6 erential, and in the public interest, whether fees proposed
7 to be assessed within the region are just, reasonable, not
8 unduly discriminatory or preferential, and in the public
9 interest and any other responsibilities requested by the
10 Commission. The Commission may give deference to the
11 advice of any such regional advisory body if that body is
12 organized on an Interconnection-wide basis.

13 “(k) APPLICATION TO ALASKA AND HAWAII.—The
14 provisions of this section do not apply to Alaska or Ha-
15 waii.”

16 (b) STATUS OF ERO.—The Electric Reliability Orga-
17 nization certified by the Federal Energy Regulatory Com-
18 mission under section 215(c) of the Federal Power Act
19 and any regional entity delegated enforcement authority
20 pursuant to section 215(e)(4) of that Act are not depart-
21 ments, agencies, or instrumentalities of the United States
22 Government.

23 **SEC. 5. DISPOSITION OF PROPERTY.**

24 Section 203 of the Federal Power Act (16 U.S.C.
25 824b) is repealed.

1 **SEC. 6. REGIONAL TRANSMISSION ORGANIZATIONS.**

2 Part II of the Federal Power Act (16 U.S.C. 824 et
3 seq.) is amended by adding at the end thereof the fol-
4 lowing new section:

5 **“SEC. 217. REGIONAL TRANSMISSION ORGANIZATIONS.**

6 “(a) IN GENERAL.—Among options for the formation
7 of a transmission organization, the Commission shall pre-
8 fer those in which—

9 “(1) participation in the organization by trans-
10 mitting utilities is voluntary;

11 “(2) the form, structure, and operating entity
12 of the organization are approved of by participating
13 transmitting utilities; and

14 “(3) market incentives exist to promote invest-
15 ment for expansion of transmission facilities and for
16 the introduction of new transmission technologies
17 within the territory of the organization.

18 “(b) CONDITIONS.—No order issued under this Act
19 shall require or shall be conditioned upon a requirement
20 that a transmitting utility transfer control of jurisdictional
21 facilities to a regional transmission organization.”.

22 **SEC. 7. SITING OF INTERSTATE ELECTRIC TRANSMISSION**
23 **FACILITIES.**

24 (a) AMENDMENT OF FEDERAL POWER ACT.—Part
25 II of the Federal Power Act is amended by adding at the
26 end the following:

1 **“SEC. 218. SITING OF INTERSTATE ELECTRIC TRANS-**
2 **MISSION FACILITIES.**

3 “(a) DESIGNATION OF NATIONAL INTEREST ELEC-
4 TRIC TRANSMISSION CORRIDORS.—

5 “(1) TRANSMISSION CONGESTION STUDY.—

6 Within 1 year after the enactment of this section,
7 and no less frequently than every 3 years thereafter,
8 the Secretary of Energy, in consultation with af-
9 fected States, shall conduct a study of electric trans-
10 mission congestion. After considering alternatives
11 and recommendations from interested parties, in-
12 cluding an opportunity for comment from affected
13 States, the Secretary shall issue a report, based on
14 such study, which may designate any geographic
15 area experiencing or likely to experience electric en-
16 ergy transmission capacity constraints or congestion
17 that adversely affects consumers as a national inter-
18 est electric transmission corridor. The Secretary
19 shall rely upon information provided by regional
20 transmission organizations developed in conjunction
21 with States through regional transmission organiza-
22 tion planning processes, information provided by
23 State public utility commissions, and such other in-
24 formation about transmission constraints, reliability,
25 and prices for electric energy as the Secretary deems
26 appropriate.

1 “(2) CONSIDERATIONS.—In determining wheth-
2 er to designate a national interest electric trans-
3 mission corridor referred to in paragraph (1) under
4 this section, the Secretary shall consider, among
5 other factors, the effect of additional transmission
6 capacity on reliability, energy markets, economic
7 growth, and national security.

8 “(b) CONSTRUCTION PERMIT.—Except as provided
9 in subsection (i), the Commission is authorized, upon its
10 own motion or upon request, after notice and an oppor-
11 tunity for hearing, to issue a permit or permits for the
12 construction or modification of electric transmission facili-
13 ties in a national interest electric transmission corridor
14 designated by the secretary under subsection (a) if the
15 Commission finds that ___

16 “(1)(A) a State in which the transmission fa-
17 cilities are to be constructed or modified is without
18 authority to—

19 “(i) approve the siting of the facilities; or

20 “(ii) consider the interstate benefits ex-
21 pected to be achieved by the proposed construc-
22 tion or modification of transmission facilities in
23 the State;

24 “(B) the applicant for a permit is a transmit-
25 ting utility under this Act but does not qualify to

1 apply for a permit or siting approval for the pro-
2 posed project in a State because the applicant does
3 not serve end-use customers in the State; or

4 “(C) a State commission or other entity that
5 has authority to approve the siting of the facilities
6 has—

7 “(i) withheld approval for more than 1
8 year after the filing of an application pursuant
9 to applicable law seeking approval or 1 year
10 after the designation of the relevant national in-
11 terest electric transmission corridor, whichever
12 is later; or

13 “(ii) conditioned its approval in such a
14 manner that the proposed construction or modi-
15 fication will not significantly reduce trans-
16 mission congestion in interstate commerce or is
17 not economically feasible;

18 “(2) the facilities to be authorized by the per-
19 mit will be used for the transmission of electric en-
20 ergy in interstate commerce;

21 “(3) the proposed construction or modification
22 is consistent with the public interest; and

23 “(4) the proposed construction or modification
24 will significantly reduce transmission congestion in

1 interstate commerce and protects or benefits con-
2 sumers.

3 “(c) PERMIT APPLICATIONS.—Applications for per-
4 mits to be issued pursuant to subsection (b) shall be made
5 in writing to the Commission. The Commission shall issue
6 rules setting forth the form of the application, the infor-
7 mation to be contained in the application, and the manner
8 of service of notice of the permit application upon inter-
9 ested persons.

10 “(d) COMMENTS.—The Commission shall afford each
11 State in which a transmission facility covered by the per-
12 mit to be issued under subsection (b) is or will be located,
13 each affected Federal agency and Indian tribe, private
14 property owners, and other interested persons, a reason-
15 able opportunity to present their views and recommenda-
16 tions with respect to the need for and impact of a facility
17 covered by the permit.

18 “(e) RIGHTS-OF-WAY.—In the case of a permit under
19 subsection (b) for electric transmission facilities to be lo-
20 cated on property other than property owned by the
21 United States or a State, if the permit holder cannot ac-
22 quire by contract, or is unable to agree with the owner
23 of the property to the compensation to be paid for, the
24 necessary right-of-way to construct or modify such trans-
25 mission facilities, the permit holder may acquire the right-

1 of-way by the exercise of the right of eminent domain in
2 the district court of the United States for the district in
3 which the property concerned is located, or in the appro-
4 priate court of the State in which the property is located.
5 The practice and procedure in any action or proceeding
6 for that purpose in the district court of the United States
7 shall conform as nearly as may be with the practice and
8 procedure in similar action or proceeding in the courts of
9 the State where the property is situated.

10 “(f) STATE LAW.— Nothing in this section shall pre-
11 clude any person from constructing or modifying any
12 transmission facility pursuant to State law.

13 “(g) COORDINATION OF FEDERAL AUTHORIZATIONS
14 FOR TRANSMISSION AND DISTRIBUTION FACILITIES.—

15 “(1) LEAD AGENCY.—If an applicant, or pro-
16 spective applicant, for a Federal authorization re-
17 lated to an electric transmission or distribution facil-
18 ity so requests, the Secretary of Energy (DOE) shall
19 act as the lead agency for purposes of coordinating
20 and assuring expeditious processing of all applicable
21 Federal authorizations and related environmental re-
22 views of the facility. For purposes of this subsection,
23 the term ‘Federal authorization’ means any author-
24 ization required under Federal law in order to site
25 a transmission or distribution facility, including but

1 not limited to such permits, special use authoriza-
2 tions, certifications, opinions, or other approvals as
3 may be required, whether issued by a Federal or a
4 State agency. To the maximum extent practicable
5 under applicable Federal law, the Secretary of En-
6 ergy shall coordinate this Federal authorization and
7 review process with any Indian tribes, multi-State
8 entities, and State agencies that are responsible for
9 conducting any separate permitting and environ-
10 mental reviews of the facility, to ensure timely and
11 efficient review and permit decisions.

12 “(2) AUTHORITY TO SET DEADLINES.—As lead
13 agency, the Secretary of Energy shall establish
14 prompt and binding intermediate milestones and
15 deadlines for the review of, and decisions relating to,
16 the proposed facility, to enable completion of such
17 review and decisions within one year of the request
18 that the Secretary serve as lead agency. The Sec-
19 retary of Energy also shall provide an expeditious
20 pre-application mechanism for prospective applicants
21 to confer with the agencies involved to have each
22 such agency determine and communicate to the pro-
23 spective applicant within 60 days of when the pro-
24 spective applicant submits a request for such infor-
25 mation concerning the likelihood of approval for a

1 potential facility, and key issues of concern to the
2 agencies and public.

3 “(3) CONSOLIDATED ENVIRONMENTAL REVIEW
4 AND RECORD OF DECISION.—As lead agency head,
5 the Secretary of Energy, in consultation with the af-
6 fected agencies, shall prepare a single environmental
7 review document, which shall be used as the basis
8 for all decisions on the proposed project under Fed-
9 eral law. The document may be an environmental as-
10 sessment or environmental impact statement under
11 the National Environmental Policy Act of 1969 if
12 warranted, or such other form of analysis as may be
13 warranted. The Secretary of Energy and the heads
14 of other agencies shall streamline the review and
15 permitting of transmission and distribution facilities
16 within corridors designated under section 503 of the
17 Federal Land Policy and Management Act (43
18 U.S.C. 1763) by fully taking into account prior anal-
19 yses and decisions relating to the corridors. Such
20 document shall include consideration by the relevant
21 agencies of any applicable criteria or other matters
22 as required under applicable laws.

23 “(4) APPEALS.—In the event that any agency
24 has denied a Federal authorization required for a
25 transmission or distribution facility, or has failed to

1 act by the deadline established by the Secretary pur-
2 suant to this section for deciding whether to issue
3 the authorization, the applicant or any State in
4 which the facility would be located may file an ap-
5 peal with the Secretary, who shall, in consultation
6 with the affected agency, review the denial or take
7 action on the pending application. Based on the
8 overall record and in consultation with the affected
9 agency, the Secretary shall within 90 days issue the
10 necessary authorization with any appropriate condi-
11 tions, or deny the appeal. In making a decision
12 under this paragraph, the Secretary shall comply
13 with applicable requirements of Federal law, includ-
14 ing any requirements of the Endangered Species
15 Act, the Clean Water Act, the National Forest Man-
16 agement Act, the National Environmental Policy Act
17 of 1969, and the Federal Land Policy and Manage-
18 ment Act.

19 “(5) CONFORMING REGULATIONS AND MEMO-
20 RANDA OF UNDERSTANDING.—Not later than 18
21 months after the date of enactment of this section,
22 the Secretary of Energy shall issue regulations nec-
23 essary to implement this subsection. Not later than
24 1 year after the date of enactment of this section,
25 the Secretary and the heads of Federal agencies

1 with authority to issue Federal authorizations shall
2 enter into Memoranda of Understanding to imple-
3 ment this section.

4 “(6) DURATION AND RENEWAL.—Each Federal
5 land use authorization for an electricity transmission
6 or distribution facility shall be issued—

7 “(A) for a duration, as determined by the
8 Secretary of Energy, commensurate with the
9 anticipated use of the facility, and

10 “(B) with appropriate authority to manage
11 the right-of-way for reliability and environ-
12 mental protection.

13 Upon the expiration of any such authorization (in-
14 cluding an authorization issued prior to enactment
15 of this section), the authorization shall be reviewed
16 for renewal taking fully into account reliance on
17 such electricity infrastructure, recognizing its impor-
18 tance for public health, safety and economic welfare
19 and as a legitimate use of Federal lands.

20 “(7) MAINTAINING AND ENHANCING THE
21 TRANSMISSION INFRASTRUCTURE.—In exercising the
22 responsibilities under this section, the Secretary of
23 Energy shall consult regularly with the Federal En-
24 ergy Regulatory Commission (FERC) and owners

1 and operators of electric transmission and distribu-
2 tion facilities.

3 “(h) INTERSTATE COMPACTS.—The consent of Con-
4 gress is hereby given for 3 or more contiguous States to
5 enter into an interstate compact, subject to approval by
6 Congress, establishing regional transmission siting agen-
7 cies to facilitate siting of future electric energy trans-
8 mission facilities within such States and to carry out the
9 electric energy transmission siting responsibilities of such
10 States. The Secretary of Energy may provide technical as-
11 sistance to regional transmission siting agencies estab-
12 lished under this subsection. Such regional transmission
13 siting agencies shall have the authority to review, certify,
14 and permit siting of transmission facilities, including fa-
15 cilities in national interest electric transmission corridors
16 (other than facilities on property owned by the United
17 States). The Commission shall have no authority to issue
18 a permit for the construction or modification of electric
19 transmission facilities within a State that is a party to
20 a compact, unless the members of a compact are in dis-
21 agreement and the Secretary makes, after notice and an
22 opportunity for a hearing, the finding described in section
23 (b)(1)(C).

24 “(i) SAVINGS CLAUSE.—Nothing in this section shall
25 be construed to affect any requirement of the environ-

1 mental laws of the United States, including, but not lim-
2 ited to, the National Environmental Policy Act of 1969.
3 Subsection (h)(3) of this section shall not apply to any
4 Congressionally-designated components of the National
5 Wilderness Preservation System, the National Wild and
6 Scenic Rivers System, or the National Park system (in-
7 cluding National Monuments therein).

8 “(j) ERCOT.—This section shall not apply within the
9 area referred to in section 212(k)(2)(A).”.

10 (b) REPORTS TO CONGRESS ON CORRIDORS AND
11 RIGHTS OF WAY ON FEDERAL LAND.—The Secretary of
12 the Interior, the Secretary of Energy, the Secretary of Ag-
13 riculture, and the Chairman of the Council on Environ-
14 mental Quality shall, within 90 days of the date of enact-
15 ment of this subsection, submit a joint report to Congress
16 identifying each of the following:

17 (1) All existing designated transmission and
18 distribution corridors on Federal land and the status
19 of work related to proposed transmission and dis-
20 tribution corridor designations under Title V of the
21 Federal Land Policy and Management Act (43
22 U.S.C. 1761 et. Seq.), the schedule for completing
23 such work, any impediments to completing the work,
24 and steps that Congress could take to expedite the
25 process.

1 (2) The number of pending applications to lo-
2 cate transmission and distribution facilities on Fed-
3 eral lands, key information relating to each such fa-
4 cility, how long each application has been pending,
5 the schedule for issuing a timely decision as to each
6 facility, and progress in incorporating existing and
7 new such rights-of-way into relevant land use and
8 resource management plans or their equivalent.

9 (3) The number of existing transmission and
10 distribution rights-of-way on Federal lands that will
11 come up for renewal within the following 5, 10, and
12 15 year periods, and a description of how the Secre-
13 taries plan to manage such renewals.

14 **SEC. 8. ELECTRIC TRANSMISSION PROPERTY TREATED AS**
15 **15-YEAR PROPERTY.**

16 (a) IN GENERAL.—Subparagraph (E) of section
17 168(e)(3) of the Internal Revenue Code of 1986 (relating
18 to classification of certain property) is amended by strik-
19 ing “and” at the end of clause (v), by striking the period
20 at the end of clause (vi) and by inserting “, and”, and
21 by adding at the end the following new clause:

22 “(vii) any section 1245 property (as defined in sec-
23 tion 1245(a)(3)) used in the transmission at 69 or more
24 kilovolts of electricity for sale the original use of which

1 commences with the taxpayer after the date of the enact-
2 ment of this clause.”.

3 (b) ALTERNATIVE SYSTEM.— The table contained in
4 section 168(g)(3)(B) is amended by inserting after the
5 item relating to subparagraph (E)(vi) the following:

“(E)(vii) 30”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to property placed in service after
8 the date of the enactment of this Act, in taxable years
9 ending after such date.

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