

110TH CONGRESS  
1ST SESSION

# H. R. 4059

To promote electric transmission construction in rural areas with significant renewable energy potential, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 1, 2007

Mr. INSLEE (for himself and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Natural Resources and Transportation and Infrastructure, 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

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## A BILL

To promote electric transmission construction in rural areas with significant renewable energy potential, 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.**

4       This Act may be cited as the “Rural Clean Energy  
5 Superhighways Act”.

6       **SEC. 2. FINDINGS.**

7       The Congress finds that—

1           (1) electricity produced from renewable re-  
2 sources helps to reduce greenhouse gas emissions,  
3 and limits emissions of other pollutants regulated  
4 pursuant to the Clean Air Act, enhances national en-  
5 ergy security, and provides substantial economic  
6 benefits;

7           (2) the potential exists for a far greater per-  
8 centage of electric production in the United States  
9 to be generated through the use of renewable re-  
10 sources than current levels;

11           (3) many of the best potential renewable energy  
12 resources are located in rural areas far from popu-  
13 lation centers;

14           (4) the lack of adequate electric transmission  
15 capacity is one of the primary obstacles to the devel-  
16 opment of electric generation facilities fueled by re-  
17 newable energy resources;

18           (5) the economies of many rural areas would  
19 substantially benefit from the increased development  
20 of electric generation facilities fueled by renewable  
21 energy resources; and

22           (6) it is in the national interest for the Federal  
23 Government to implement policies that will enhance  
24 the amount of electric transmission capacity avail-

1       able to take full advantage of renewable energy re-  
2       sources to generate electricity.

3 **SEC. 3. NATIONAL RENEWABLE ENERGY ZONES.**

4       (a) IN GENERAL.—Title II of the Federal Power Act  
5 (16 U.S.C. 824 et seq.) is amended—

6           (1) by inserting before the section heading of  
7       section 201 (16 U.S.C. 824 et seq.) the following:

8       **“Subtitle A—Regulation of Electric  
9           Utility Companies”;**

10       and

11           (2) by adding at the end the following:

12       **“Subtitle B—National Renewable  
13           Energy Zones**

14 **“SEC. 231. DEFINITIONS.**

15       “In this subtitle:

16           “(1) The term ‘Commission’ means the Federal  
17       Energy Regulatory Commission.

18           “(2) The term ‘electricity from renewable en-  
19       ergy’ means electric energy generated from—

20           “(A) solar, wind, geothermal or marine  
21       and hydrokinetic renewable energy;

22           “(B) biomass (as defined in section 203(b)  
23       of the Energy Policy Act of 2005);

24           “(C) landfill gas; or

25           “(D) incremental hydropower.

1           “(3) The term ‘marine and hydrokinetic renew-  
2           able energy’ means energy derived from—

3                   “(A) waves, tides, and currents in oceans,  
4                   estuaries, and tidal areas;

5                   “(B) free flowing water in rivers, lakes,  
6                   and streams;

7                   “(C) free flowing water in an irrigation  
8                   system, canal, or other man-made channel, in-  
9                   cluding projects that utilize nonmechanical  
10                  structures to accelerate the flow of water for  
11                  electric power production purposes; or

12                  “(D) differentials in ocean temperature  
13                  (ocean thermal energy conversion).

14           “(4) The term ‘Federal Transmitting Utility’  
15           means a Federal Power Marketing Administration  
16           that owns or operates electric transmission facilities.  
17           Such term includes the Tennessee Valley Authority.

18           “(5) The term ‘geothermal energy’ means en-  
19           ergy derived from a geothermal deposit (within the  
20           meaning of section 613(e)(2) of the Internal Rev-  
21           enue Code of 1986).

22           “(6) The term ‘renewable energy trunkline’  
23           means a radial transmission line, including all asso-  
24           ciated transmission facilities and equipment within a  
25           National Renewable Energy Zone, that is used to

1 deliver electricity from renewable energy generators  
2 to the point where it connects to a high-voltage elec-  
3 tric transmission system, including any modifica-  
4 tions, additions or upgrades to such facilities and  
5 equipment. A renewable energy trunkline shall not  
6 include network upgrades.

7 “(7) The term ‘network upgrades’ means the  
8 additions or modifications to the transmission sys-  
9 tem of the transmission provider required at or be-  
10 yond the point at which the generators or renewable  
11 energy trunklines interconnect to the transmission  
12 system of the transmission provider to accommodate  
13 the transmission of renewable energy generated in a  
14 National Renewable Energy Zone.

15 “(8) The term ‘Indian lands’ means—

16 “(A) any land within the limits of any In-  
17 dian reservation, pueblo or Rancheria,

18 “(B) any land not within the limits of any  
19 Indian reservation, pueblo or Rancheria title to  
20 which was on the date of enactment of this Act  
21 either held in trust by the United States for the  
22 benefit of any Indian tribe or individual or held  
23 by any Indian tribe or individual subject to re-  
24 striction by the United States against alien-  
25 ation,



1 newable energy if there were a sufficient level of  
2 electric transmission capacity without having a ma-  
3 terial detrimental impact on reliability.

4 “(2) An insufficient level of electric trans-  
5 mission capacity to enable one or more electricity  
6 consuming areas to access the potential renewable  
7 energy generation capacity identified pursuant to  
8 paragraph (1).

9 “(3) Substantial demand in one or more elec-  
10 tricity consuming areas for renewable energy that  
11 would be generated in the National Renewable En-  
12 ergy Zone if there were a sufficient level of trans-  
13 mission capacity.

14 “(b) FACTORS.—In making the designations required  
15 by subsection (a), the President shall take into account  
16 each of the following:

17 “(1) State and Federal requirements for utili-  
18 ties to incorporate renewable energy as part of serv-  
19 ing load.

20 “(2) The impact of the development of renew-  
21 able energy trunkline facilities and network upgrades  
22 on the aesthetic and environmental values of land  
23 contained in an area eligible for National Renewable  
24 Energy Zone designation.

1           “(3) Compatibility with regional transmission  
2 plans.

3           “(c) ADDITIONAL FACILITIES.—Within 1 year after  
4 the designation of a National Renewable Energy Zone, the  
5 President, after consulting with the Federal Transmitting  
6 Utilities, shall identify, and provide public notice of, spe-  
7 cific additional renewable energy trunkline facilities and  
8 network upgrades required to substantially increase the  
9 generation of electricity from renewable energy within  
10 each National Renewable Energy Zone. The President  
11 shall, when identifying transmission facilities pursuant to  
12 this subsection, take into account existing transmission  
13 plans for the areas included in a National Renewable En-  
14 ergy Zone.

15           “(d) PUBLIC VIEWS.—Before designating an area as  
16 a National Renewable Energy Zone, the President shall,  
17 after notice and public comment, consider the views of af-  
18 fected States, Indian Tribe and other interested persons.

19           “(e) EXPANSION.—The President shall every 3 years  
20 after the date of enactment of this subtitle consider wheth-  
21 er to expand an existing National Renewable Energy Zone  
22 or designate a new National Renewable Energy Zone pur-  
23 suant to the criteria set forth in subsection (a).

24           “(f) DELISTING.—The President, after opportunity  
25 for public comment, shall every 9 years review the Na-

1 tional Renewable Energy Zones designated pursuant to  
2 subsection (a) and delist those Zones that no longer meet  
3 the criteria specified in that subsection.

4 **“SEC. 233. ENCOURAGING CLEAN ENERGY SUPERHIGHWAY**  
5 **DEVELOPMENT IN NATIONAL RENEWABLE**  
6 **ENERGY ZONES.**

7 “(a) COST RECOVERY.—(1) Consistent with sections  
8 205 and 206, the Commission shall issue and enforce such  
9 regulations as are necessary to ensure that a public utility  
10 that finances transmission capacity to transmit electricity  
11 from renewable energy from a National Renewable Energy  
12 Zone to an electricity consuming area after the date of  
13 enactment of this subtitle recovers through its rates for  
14 transmission service all prudently incurred costs and a  
15 reasonable return on equity associated with the construc-  
16 tion and operation of such new transmission capacity. In  
17 making such regulations, the Commission shall take into  
18 account the current and future beneficiaries of the new  
19 transmission capacity.

20 “(2) A regulation under paragraph (1) shall be en-  
21 forceable in accordance with the provisions of law applica-  
22 ble to enforcement of regulations under this Act.

23 “(b) RENEWABLE ENERGY TRUNKLINE TRANS-  
24 MISSION FINANCING MECHANISM.—The Commission shall  
25 permit a renewable energy trunkline built by a public util-

1 ity referred to in this section in a National Renewable En-  
2 ergy Zone to, in advance of significant generation inter-  
3 connection requests, be initially funded through a trans-  
4 mission charge imposed upon all transmission customers  
5 of the public utility or, if the renewable energy trunkline  
6 is built in an area served by a Regional Transmission Or-  
7 ganization or independent system operator, all of the  
8 transmission customers of such Regional Transmission  
9 Organization or independent systems operator, if the Com-  
10 mission makes each of the following findings:

11           “(1) The renewable energy resources that would  
12           utilize the renewable energy trunkline are remote  
13           from the grid and load centers.

14           “(2) The renewable energy trunkline will likely  
15           result in multiple individual renewable energy elec-  
16           tric generation projects being developed by multiple  
17           competing developers.

18           “(3) The renewable energy trunkline has at  
19           least one project subscribed through an executed  
20           generation interconnection agreement with the trans-  
21           mission provider and has tangible demonstration of  
22           additional interest.

23           “(c) NEW PROJECTS.—As new electric generation  
24           projects are constructed and interconnected to the renew-  
25           able energy trunkline, the Commission shall require the

1 transmission services contract holder for such generation  
2 project to, on a going forward basis, pay a pro-rata share  
3 of the renewable energy trunkline facility's costs to the  
4 transmission provider in order to reduce the otherwise ap-  
5 plicable rates of customers of the public utility or Regional  
6 Transmission Organization, unless the public utility pro-  
7 poses to the Commission, and the Commission accepts, an  
8 alternative whereby generation projects would pay a lesser  
9 amount.

10 “(d) NETWORK UPGRADES COST ALLOCATION.—

11 “(1) Within 6 months after the date the Presi-  
12 dent designates an area as a National Renewable  
13 Energy Zone, the State utility commissions or other  
14 appropriate bodies having jurisdiction over the pub-  
15 lic utilities providing electric service in the National  
16 Renewable Energy Zone or the related electricity  
17 consuming area may jointly propose to the Commis-  
18 sion a cost allocation plan for network upgrades  
19 built by a public utility that would serve the elec-  
20 tricity consuming area.

21 “(2) The Commission may approve the plan  
22 proposed by the States pursuant to paragraph (1) if,  
23 taking into account the users of the transmission fa-  
24 cilities, the plan will result in rates that are just and  
25 reasonable and not unduly discriminatory or pref-

1        erential and the plan would not unduly inhibit the  
2        development of renewable energy electric generation  
3        projects.

4            “(3) Unless a plan has been approved by the  
5        Commission pursuant to paragraph (2), the Com-  
6        mission shall fairly allocate the costs of new network  
7        upgrades built in the area by one or more public  
8        utility transmission providers (recognizing the na-  
9        tional and regional benefits associated with increased  
10       access to electricity from renewable energy) pursu-  
11       ant to a rolled-in transmission charge in the rates of  
12       all public utility transmission providers in the Na-  
13       tional Renewable Energy zone and in the related  
14       electricity consuming area. Nothing in subsection (b)  
15       or in the Rural Clean Energy Superhighways Act  
16       shall expand, directly or indirectly, the jurisdiction  
17       of the Commission with respect to any Federal  
18       Transmitting Utility.

19            “(4) A cost allocation identified in paragraph  
20       (3) shall be deemed consistent with sections 205 and  
21       206.

22            “(e) REGULATIONS.—The Commission shall issue  
23       and enforce such regulations as are necessary to ensure  
24       that electric generation produced from renewable sources  
25       are interconnected expeditiously to the grid.”.

1 (b) FEDERAL TRANSMITTING UTILITIES.—(1) If no  
2 privately or publicly funded entity commits within 3 years  
3 of the identification required in section 232(c) of the Fed-  
4 eral Power Act to finance (either on its own or through  
5 a third party financing arrangement with a Federal  
6 Transmitting Utility) a network upgrade or a renewable  
7 energy trunkline facility identified in such notice, a Fed-  
8 eral Transmitting Utility shall finance such facilities if the  
9 Federal Transmitting Utility determines that—

10 (A) the facilities would be, partially or wholly,  
11 located within the area in which the Federal Trans-  
12 mitting Utility is statutorily authorized to construct  
13 transmission facilities;

14 (B) the facilities may be constructed and oper-  
15 ated without having a material detrimental impact  
16 on reliability;

17 (C) equally effective, least cost, nontransmission  
18 options are unavailable;

19 (D) a substantial likelihood exists that the facil-  
20 ity will be sufficiently subscribed once constructed  
21 and will be financially viable;

22 (E) there are sufficient funds in the Trans-  
23 mission Fund established by paragraph (5) to fi-  
24 nance such facilities; and

1 (F) the facilities are not in conflict with exist-  
2 ing transmission plans for the areas included in a  
3 National Renewable Energy Zone.

4 (2) The Federal Transmitting Utility may also study,  
5 construct, operate, and maintain facilities financed under  
6 paragraph (1), or may cooperate with others in performing  
7 these functions, as arranged at the discretion of the Fed-  
8 eral Transmitting Utility.

9 (3) Notwithstanding paragraphs (1) and (2), a Fed-  
10 eral Transmitting Utility shall not finance and construct  
11 a network upgrade associated with transmission facilities  
12 owned by another party without the consent of such party.

13 (4) A Federal Transmitting Utility that makes the  
14 determination to finance facilities pursuant to paragraph  
15 (1) shall coordinate with any regional planning organiza-  
16 tions and Federal and non-Federal transmission-owning  
17 utilities, consistent with generally acceptable regional co-  
18 ordination practices, to identify the best plans of service  
19 for those facilities.

20 (5)(A) Not more than \$10,000,000,000 is authorized,  
21 to be deposited in a Transmission Fund in the United  
22 States Treasury. Amounts in such Fund shall be available  
23 for expenditure by the Secretary of Energy, subject to an-  
24 nual appropriation, as provided in this paragraph.

1 (B) Subject to the availability of funds in the Trans-  
2 mission Fund, the Secretary of Energy is authorized to  
3 issue and sell bonds, notes, and other evidence of indebted-  
4 ness to the Secretary of the Treasury from time to time  
5 to finance the activities of the Federal Transmitting Utili-  
6 ties authorized by paragraph (1). Except as specified in  
7 subparagraph (C), amounts used for the purposes of this  
8 Act shall be recovered by the Federal Transmitting Utility  
9 and repaid to the Transmission Fund over the life of the  
10 facilities.

11 (C) The Federal Transmitting Utility shall establish  
12 rate and accounting policies and procedures to ensure that  
13 capital expenditures incurred under this section are sched-  
14 uled to be recovered by the Federal Transmitting Utility  
15 and repaid to the Transmission Fund over the life of the  
16 facilities. Operation and maintenance costs shall be recov-  
17 ered and repaid to the Transmission Fund in the year in-  
18 curred. These policies and procedures shall categorize  
19 costs as nonreimbursable to the degree necessary so as not  
20 to impact the rates paid by existing power and trans-  
21 mission customers of the Federal Transmitting Utility,  
22 who shall not be liable for the costs of any associated re-  
23 newable energy trunklines or network upgrades except for  
24 the costs associated with any transmission capacity fi-  
25 nanced pursuant to this section that these customers uti-

1 lize as determined by each Federal Transmitting Utility.  
2 Any amounts that cannot be recovered as provided in this  
3 subparagraph shall not be required to be repaid by the  
4 Federal Transmitting Utility to the Transmission Fund  
5 in the United States Treasury.

6 (6) The regulations promulgated pursuant to this Act  
7 shall, to the maximum extent practicable, ensure that not  
8 less than 75 percent of the capacity of any radial network  
9 upgrade and renewable energy trunkline facilities financed  
10 by a Federal Transmitting Utility pursuant to this section  
11 shall be available for reservation on a priority basis for  
12 electricity from renewable energy.

13 (c) COMMISSION JURISDICTION.—Nothing in this  
14 subsection shall expand, directly or indirectly, the jurisdic-  
15 tion of the Commission with respect to any Federal Trans-  
16 mitting Utility.

17 **SEC. 4. FEDERAL POWER MARKETING ADMINISTRATION**  
18 **AND TVA.**

19 (a) PROMOTION OF RENEWABLE ENERGY AND EN-  
20 ERGY EFFICIENCY.—The Western Area Power Adminis-  
21 tration, the Southeastern Area Power Administration, the  
22 Southwestern Area Power Administration and the Ten-  
23 nessee Valley Authority shall each identify and, to the ex-  
24 tent economically feasible and not inconsistent with other  
25 statutory obligations, take steps to promote energy con-

1 servation and renewable energy electric resource develop-  
2 ment in the regions served by such utility.

3 (b) ACQUISITION OF RENEWABLE ENERGY AND RE-  
4 NEWABLE ENERGY CREDITS.—Each Federal Power Mar-  
5 keting Administration and the Tennessee Valley Authority  
6 may, subject to advance payment arrangements by the  
7 Federal Government being in place that assure the Fed-  
8 eral Power Marketing Administration is held financially  
9 harmless for its actions pursuant to this section, use its  
10 purchasing power to acquire on behalf of the Federal Gov-  
11 ernment electricity from renewable energy and renewable  
12 energy credits in sufficient amounts to meet the require-  
13 ments of section 203 of the Energy Policy Act of 2005.  
14 The Federal agencies on behalf of which a Federal Power  
15 Marketing Administration or the Tennessee Valley Au-  
16 thority acquires renewable energy or renewable energy  
17 credits shall fully reimburse the Federal Power Marketing  
18 Administration or the Tennessee Valley Authority for such  
19 transactions.

20 (c) TRIBAL RENEWABLE ENERGY.—Each Federal  
21 Power Marketing Administration and the Tennessee Val-  
22 ley Authority shall identify opportunities for promoting  
23 the development of facilities generating electricity from re-  
24 newable energy on Indian lands.

1 (d) NONREIMBURSABLE FUNDS.—The amounts ex-  
2 pended by a Federal Power Marketing Administration or  
3 the Tennessee Valley Authority pursuant to this section  
4 shall not be subject to reimbursement by the customers  
5 of such utility.

6 **SEC. 5. CONSISTENCY WITH ENVIRONMENTAL LAWS.**

7 Nothing in this Act shall be deemed to waive any ex-  
8 isting Federal or State environmental protection provision,  
9 including the requirements of—

10 (1) the National Forest Management Act of  
11 1976 (16 U.S.C. 472a et seq.);

12 (2) the Endangered Species Act of 1973 (16  
13 U.S.C. 1531 et seq.);

14 (3) the National Environmental Policy Act of  
15 1969 (42 U.S.C. 4231 et seq.);

16 (4) the Federal Water Pollution Control Act of  
17 1969 (33 U.S.C. 1251 et seq.); or

18 (5) the Federal Land Policy and Management  
19 Act of 1976 (43 U.S.C. 1701 et seq.).

○