

107TH CONGRESS
1ST SESSION

S. 933

To amend the Federal Power Act to encourage the development and deployment of innovative and efficient energy technologies.

IN THE SENATE OF THE UNITED STATES

MAY 22, 2001

Mr. JEFFORDS (for himself, Mrs. CLINTON, Mr. LEAHY, Mr. LIEBERMAN, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Federal Power Act to encourage the development and deployment of innovative and efficient energy technologies.

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 “Combined Heat and
5 Power Advancement Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) the removal of barriers to the development
9 and deployment of combined heat and power tech-

1 nologies and systems, an example of an array of in-
2 novative energy-supply and energy-efficient tech-
3 nologies and systems, would—

4 (A) encourage technological innovation;

5 (B) reduce energy prices;

6 (C) spur economic development;

7 (D) enhance productivity;

8 (E) increase employment; and

9 (F) improve environmental quality and en-
10 ergy self-sufficiency;

11 (2) the level of efficiency of the United States
12 electricity-generating system has been stagnant over
13 the past several decades;

14 (3) technologies and systems available as of the
15 date of enactment of this Act, including a host of in-
16 novative onsite, distributed generation technologies,
17 could—

18 (A) dramatically increase productivity;

19 (B) double the efficiency of the United
20 States electricity-generating system; and

21 (C) reduce emissions of regulated pollut-
22 ants and greenhouse gases;

23 (4) innovative electric technologies emit a much
24 lower level of pollutants as compared to the average
25 quantity of pollutants generated by United States

1 electric generating plants as of the date of enact-
2 ment of this Act;

3 (5) a significant proportion of the United
4 States energy infrastructure will need to be replaced
5 by 2010;

6 (6) the public interest would best be served if
7 that infrastructure were replaced by innovative tech-
8 nologies that dramatically increase productivity, im-
9 prove efficiency, and reduce pollution;

10 (7) financing and regulatory practices in effect
11 as of the date of enactment of this Act do not recog-
12 nize the environmental and economic benefits to be
13 obtained from the avoidance of transmission and dis-
14 tribution losses, and the reduced load on the elec-
15 tricity-generating system, provided by onsite, com-
16 bined heat and power production;

17 (8) many legal, regulatory, informational, and
18 perceptual barriers block the development and dis-
19 semination of combined heat and power and other
20 innovative energy technologies; and

21 (9) because of those barriers, United States
22 taxpayers are not receiving the benefits of the sub-
23 stantial research and development investment in in-
24 novative energy technologies made by the Federal
25 Government.

1 **SEC. 3. PURPOSE.**

2 The purpose of this Act is to encourage energy pro-
3 ductivity and efficiency increases by removing barriers to
4 the development and deployment of combined heat and
5 power technologies and systems.

6 **SEC. 4. INTERCONNECTION.**

7 (a) DEFINITIONS.—Section 3 of the Federal Power
8 Act (16 U.S.C. 796) is amended—

9 (1) by striking paragraph (23) and inserting
10 the following:

11 “(23) TRANSMITTING UTILITY.—The term
12 ‘transmitting utility’ means any entity (notwith-
13 standing section 201(f)) that owns, controls, or oper-
14 ates an electric power transmission facility that is
15 used for the sale of electric energy.”; and

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

17 “(26) APPROPRIATE REGULATORY AUTHOR-
18 ITY.—The term ‘appropriate regulatory authority’
19 means—

20 “(A) the Commission;

21 “(B) a State commission;

22 “(C) a municipality; or

23 “(D) a cooperative that is self-regulating
24 under State law and is not a public utility.

1 “(27) GENERATING FACILITY.—The term ‘gen-
2 erating facility’ means a facility that generates elec-
3 tric energy.

4 “(28) LOCAL DISTRIBUTION UTILITY.—The
5 term ‘local distribution utility’ means an entity that
6 owns, controls, or operates an electric power dis-
7 tribution facility that is used for the sale of electric
8 energy.

9 “(29) NON-FEDERAL REGULATORY AUTHOR-
10 ITY.—The term ‘non-Federal regulatory authority’
11 means an appropriate regulatory authority other
12 than the Commission.”.

13 (b) INTERCONNECTION TO DISTRIBUTION FACILI-
14 TIES.—Section 210 of the Federal Power Act (16 U.S.C.
15 824i) is amended—

16 (1) by redesignating subsection (e) as sub-
17 section (g); and

18 (2) by inserting after subsection (d) the fol-
19 lowing:

20 “(e) INTERCONNECTION TO DISTRIBUTION FACILI-
21 TIES.—

22 “(1) INTERCONNECTION.—

23 “(A) IN GENERAL.—A local distribution
24 utility shall interconnect a generating facility
25 with the distribution facilities of the local dis-

1 distribution utility if the owner of the generating
2 facility—

3 “(i) complies with the final rule pro-
4 mulgated under paragraph (2); and

5 “(ii) pays the costs of the interconnec-
6 tion.

7 “(B) COSTS.—The costs of the
8 interconnection—

9 “(i) shall be just and reasonable, and
10 not unduly discriminatory, as determined
11 by the appropriate regulatory authority;
12 and

13 “(ii) shall be comparable to the costs
14 charged by the local distribution utility for
15 interconnection by any similarly situated
16 generating facility to the distribution facili-
17 ties of the local distribution utility.

18 “(C) APPLICABLE REQUIREMENTS.—The
19 right of a generating facility to interconnect
20 under subparagraph (A) does not—

21 “(i) relieve the generating facility or
22 the local distribution utility of other Fed-
23 eral, State, or local requirements; or

24 “(ii) provide the generating facility
25 with transmission or distribution service.

1 “(2) RULE.—

2 “(A) IN GENERAL.—Not later than 1 year
3 after the date of enactment of this subpara-
4 graph, the Commission shall promulgate a final
5 rule to establish reasonable and appropriate
6 technical standards for the interconnection of a
7 generating facility with the distribution facili-
8 ties of a local distribution utility.

9 “(B) PROCESS.—To the extent feasible,
10 the Commission shall develop the standards
11 through a process involving interested parties.

12 “(C) ADVISORY COMMITTEE.—The Com-
13 mission shall establish an advisory committee
14 composed of qualified experts to make rec-
15 ommendations to the Commission concerning
16 development of the standards.

17 “(D) ADMINISTRATION.—

18 “(i) BY A NON-FEDERAL REGULATORY
19 AUTHORITY.—Except where subject to the
20 jurisdiction of the Commission pursuant to
21 provisions other than clause (ii), a non-
22 Federal regulatory authority may admin-
23 ister and enforce the rule promulgated
24 under subparagraph (A).

1 “(ii) BY THE COMMISSION.—To the
2 extent that a non-Federal regulatory au-
3 thority does not administer and enforce the
4 rule, the Commission shall administer and
5 enforce the rule with respect to inter-
6 connection in that jurisdiction.

7 “(3) RIGHT TO BACKUP POWER.—

8 “(A) IN GENERAL.—In accordance with
9 subparagraph (B), a local distribution utility
10 shall offer to sell backup power to a generating
11 facility that has interconnected with the local
12 distribution utility to the extent that the local
13 distribution utility—

14 “(i) is not subject to an order of a
15 non-Federal regulatory authority to pro-
16 vide open access to the distribution facili-
17 ties of the local distribution utility;

18 “(ii) has not offered to provide open
19 access to the distribution facilities of the
20 local distribution utility; or

21 “(iii) does not allow a generating fa-
22 cility to purchase backup power from an-
23 other entity using the distribution facilities
24 of the local distribution utility.

1 “(B) RATES, TERMS, AND CONDITIONS.—A
2 sale of backup power under subparagraph (A)
3 shall be at such a rate, and under such terms
4 and conditions, as are just and reasonable and
5 not unduly discriminatory or preferential, tak-
6 ing into account the actual incremental cost,
7 whenever incurred by the local distribution util-
8 ity, to supply such backup power service during
9 the period in which the backup power service is
10 provided, as determined by the appropriate reg-
11 ulatory authority.

12 “(C) NO REQUIREMENT FOR CERTAIN
13 SALES.—A local distribution utility shall not be
14 required to offer backup power for resale to any
15 entity other than the entity for which the
16 backup power is purchased.

17 “(D) NEW OR EXPANDED LOADS.—To the
18 extent backup power is used to serve a new or
19 expanded load on the distribution system, the
20 generating facility shall pay any reasonable
21 costs associated with any transmission, distribu-
22 tion, or generation upgrade required to provide
23 such service.”.

24 (c) INTERCONNECTION TO TRANSMISSION FACILI-
25 TIES.—Section 210 of the Federal Power Act (16 U.S.C.

1 824i) is amended by inserting after subsection (e) (as
2 added by subsection (b)) the following:

3 “(f) INTERCONNECTION TO TRANSMISSION FACILI-
4 TIES.—

5 “(1) INTERCONNECTION.—

6 “(A) IN GENERAL.—Notwithstanding sub-
7 sections (a) and (c), a transmitting utility shall
8 interconnect a generating facility with the
9 transmission facilities of the transmitting utility
10 if the owner of the generating facility—

11 “(i) complies with the final rule pro-
12 mulgated under paragraph (2); and

13 “(ii) pays the costs of the interconnec-
14 tion.

15 “(B) COSTS.—

16 “(i) IN GENERAL.—Subject to clause
17 (ii), the costs of the interconnection—

18 “(I) shall be just and reasonable
19 and not unduly discriminatory; and

20 “(II) shall be comparable to the
21 costs charged by the transmitting util-
22 ity for interconnection by any simi-
23 larly situated generating facility to the
24 transmitting facilities of the transmit-
25 ting utility.

1 “(ii) EFFECT OF FERC LITE.—A non-
2 Federal regulatory authority that, under
3 any provision of Federal law enacted be-
4 fore, on, or after the date of enactment of
5 this subparagraph, is authorized to deter-
6 mine the rates for transmission service
7 shall be authorized to determine the costs
8 of any interconnection under this subpara-
9 graph in accordance with that provision of
10 Federal law.

11 “(C) APPLICABLE REQUIREMENTS.—The
12 right of a generating facility to interconnect
13 under subparagraph (A) does not—

14 “(i) relieve the generating facility or
15 the transmitting utility of other Federal,
16 State, or local requirements; or

17 “(ii) provide the generating facility
18 with transmission or distribution service.

19 “(2) RULE.—

20 “(A) IN GENERAL.—Not later than 1 year
21 after the date of enactment of this subpara-
22 graph, the Commission shall promulgate a final
23 rule to establish reasonable and appropriate
24 technical standards for the interconnection of a

1 generating facility with the transmission facili-
2 ties of a transmitting utility.

3 “(B) PROCESS.—To the extent feasible,
4 the Commission shall develop the standards
5 through a process involving interested parties.

6 “(C) ADVISORY COMMITTEE.—The Com-
7 mission shall establish an advisory committee
8 composed of qualified experts to make rec-
9 ommendations to the Commission concerning
10 development of the standards.

11 “(3) RIGHT TO BACKUP POWER.—

12 “(A) IN GENERAL.—In accordance with
13 subparagraph (B), a transmitting utility shall
14 offer to sell backup power to a generating facil-
15 ity that has interconnected with the transmit-
16 ting utility unless—

17 “(i) Federal or State law (including
18 regulations) allows a generating facility to
19 purchase backup power from an entity
20 other than the transmitting utility; or

21 “(ii) a transmitting utility allows a
22 generating facility to purchase backup
23 power from an entity other than the trans-
24 mitting utility using—

1 “(I) the transmission facilities of
2 the transmitting utility; and

3 “(II) the transmission facilities
4 of any other transmitting utility.

5 “(B) RATES, TERMS, AND CONDITIONS.—A
6 sale of backup power under subparagraph (A)
7 shall be at such a rate, and under such terms
8 and conditions, as are just and reasonable and
9 not unduly discriminatory or preferential, tak-
10 ing into account the actual incremental cost,
11 whenever incurred by the local distribution util-
12 ity, to supply such backup power service during
13 the period in which the backup power service is
14 provided, as determined by the appropriate reg-
15 ulatory authority.

16 “(C) NO REQUIREMENT FOR CERTAIN
17 SALES.—A transmitting utility shall not be re-
18 quired to offer backup power for resale to any
19 entity other than the entity for which the
20 backup power is purchased.

21 “(D) NEW OR EXPANDED LOADS.—To the
22 extent backup power is used to serve a new or
23 expanded load on the transmission system, the
24 generating facility shall pay any reasonable
25 costs associated with any transmission, distribu-

1 tion, or generation upgrade required to provide
2 such service.”.

3 (d) CONFORMING AMENDMENTS.—Section 210 of the
4 Federal Power Act (16 U.S.C. 824i) is amended—

5 (1) in subsection (a)(1)—

6 (A) by inserting “transmitting utility, local
7 distribution utility,” after “electric utility,”;
8 and

9 (B) in subparagraph (A), by inserting
10 “any transmitting utility,” after “small power
11 production facility,”;

12 (2) in subsection (b)(2), by striking “an evi-
13 dentiary hearing” and inserting “a hearing”;

14 (3) in subsection (c)(2)—

15 (A) in subparagraph (B), by striking “or”
16 at the end;

17 (B) in subparagraph (C), by striking
18 “and” at the end and inserting “or”; and

19 (C) by adding at the end the following:

20 “(D) promote competition in electricity mar-
21 kets, and”; and

22 (4) in subsection (d), by striking the last sen-
23 tence.

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