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1ST SESSION

S. 426

To enhance national security by improving the reliability of the United States electricity transmission grid, to ensure efficient, reliable and affordable energy to American consumers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2005

Mr. JEFFORDS (for himself, Ms. CANTWELL, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To enhance national security by improving the reliability of the United States electricity transmission grid, to ensure efficient, reliable and affordable energy to American consumers, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Electric Reliability Security Act of 2005”.

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

Sec. 1. Short title; table of contents.

TITLE I—RELIABILITY

- Sec. 101. Electric reliability standards.
- Sec. 102. Model electric utility workers code.
- Sec. 103. Electricity outage investigation.
- Sec. 104. Study on reliability of United States energy grid.

TITLE II—EFFICIENCY

- Sec. 201. System benefits fund.
- Sec. 202. Electricity efficiency performance standard.
- Sec. 203. Appliance efficiency.
- Sec. 204. Loan guarantees.

TITLE III—ONSITE GENERATION

- Sec. 301. Net metering.
- Sec. 302. Interconnection.
- Sec. 303. Onsite generation for emergency facilities.

1 **TITLE I—RELIABILITY**2 **SEC. 101. ELECTRIC RELIABILITY STANDARDS.**

3 (a) IN GENERAL.—Part II of the Federal Power Act
 4 (16 U.S.C 824 et seq.) is amended by adding at the end
 5 the following:

6 **“SEC. 215. ELECTRIC RELIABILITY.**

7 “(a) DEFINITIONS.—In this section:

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

9 “(i) facilities and control systems necessary
 10 for operating an interconnected electric energy
 11 transmission network (or any portion thereof);
 12 and

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

1 “(B) The term ‘bulk-power system’ does not in-
2 clude facilities used in the local distribution of elec-
3 tric energy.

4 “(2) The terms ‘Electric Reliability Organiza-
5 tion’ and ‘ERO’ mean the organization certified by
6 the Commission under subsection (c) the purpose of
7 which is to establish and enforce reliability stand-
8 ards for the bulk-power system, subject to Commis-
9 sion review.

10 “(3) The term ‘interconnection’ means a geo-
11 graphic area in which the operation of bulk-power
12 system components is synchronized such that the
13 failure of 1 or more of such components may ad-
14 versely affect the ability of the operators of other
15 components within the system to maintain reliable
16 operation of the facilities within their control.

17 “(4) The term ‘regional entity’ means an entity
18 having enforcement authority pursuant to subsection
19 (e)(4).

20 “(5)(A) The term ‘reliability standard’ means a
21 requirement, approved by the Commission under this
22 section, to provide for reliable operation of the bulk-
23 power system.

24 “(B) The term ‘reliability standard’ includes re-
25 quirements for the operation of existing bulk-power

1 system facilities and the design of planned additions
2 or modifications to those facilities to the extent nec-
3 essary to provide for reliable operation of the bulk-
4 power system.

5 “(C) The term ‘reliability standard’ does not in-
6 clude any requirement to enlarge a facility described
7 in subparagraph (B) or to construct new trans-
8 mission capacity or generation capacity.

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

16 “(7) The term ‘transmission organization’
17 means a regional transmission organization, inde-
18 pendent system operator, independent transmission
19 provider, or other transmission organization finally
20 approved by the Commission for the operation of
21 transmission facilities.

22 “(b) JURISDICTION AND APPLICABILITY.—(1)(A)
23 The Commission shall have jurisdiction, within the United
24 States, over the ERO certified by the Commission under
25 subsection (c), any regional entities, and all users, owners

1 and operators of the bulk-power system, including the en-
2 tities described in section 201(f), for purposes of approv-
3 ing reliability standards established under this section and
4 enforcing compliance with this section.

5 “(B) All users, owners, and operators of the bulk-
6 power system shall comply with reliability standards that
7 take effect under this section.

8 “(2) Not later than 180 days after the date of enact-
9 ment of this section, the Commission shall issue a final
10 rule to implement this section.

11 “(c) CERTIFICATION.—(1) Following the issuance of
12 a Commission rule under subsection (b)(2), any person
13 may submit an application to the Commission for certifi-
14 cation as the Electric Reliability Organization.

15 “(2) The Commission may certify an ERO described
16 in paragraph (1) if the Commission determines that the
17 ERO—

18 “(A) has the ability to develop and enforce, sub-
19 ject to subsection (e)(2), reliability standards that
20 provide for an adequate level of reliability of the
21 bulk-power system; and

22 “(B) has established rules that—

23 “(i) ensure the independence of the ERO
24 from the users and owners and operators of the
25 bulk-power system, while ensuring fair stake-

1 holder representation in the selection of direc-
2 tors of the ERO and balanced decisionmaking
3 in any ERO committee or subordinate organiza-
4 tional structure;

5 “(ii) allocate equitably reasonable dues,
6 fees, and other charges among end users for all
7 activities under this section;

8 “(iii) provide fair and impartial procedures
9 for enforcement of reliability standards through
10 the imposition of penalties in accordance with
11 subsection (e) (including limitations on activi-
12 ties, functions, or operations, or other appro-
13 priate sanctions);

14 “(iv) provide for reasonable notice and op-
15 portunity for public comment, due process,
16 openness, and balance of interests in developing
17 reliability standards and otherwise exercising
18 the duties of the ERO; and

19 “(v) provide for taking, after certification,
20 appropriate steps to gain recognition in Canada
21 and Mexico.

22 “(d) RELIABILITY STANDARDS.—(1) The Electric
23 Reliability Organization shall file each reliability standard
24 or modification to a reliability standard that the Electric

1 Reliability Organization proposes to be made effective
2 under this section with the Commission.

3 “(2)(A) The Commission may approve, by rule or
4 order, a proposed reliability standard or modification to
5 a reliability standard if the Commission determines that
6 the standard is just, reasonable, not unduly discriminatory
7 or preferential, and in the public interest.

8 “(B) The Commission—

9 “(i) shall give due weight to the technical exper-
10 tise of the Electric Reliability Organization with re-
11 spect to the content of a proposed standard or modi-
12 fication to a reliability standard and to the technical
13 expertise of a regional entity organized on an inter-
14 connection-wide basis with respect to a reliability
15 standard to be applicable within that interconnec-
16 tion; but

17 “(ii) shall not defer with respect to the effect of
18 a standard on competition.

19 “(C) A proposed standard or modification shall take
20 effect upon approval by the Commission.

21 “(3) The Electric Reliability Organization shall
22 rebuttably presume that a proposal from a regional entity
23 organized on an interconnection-wide basis for a reliability
24 standard or modification to a reliability standard to be ap-
25 plicable on an interconnection-wide basis is just, reason-

1 able, and not unduly discriminatory or preferential, and
2 in the public interest.

3 “(4) The Commission shall remand to the Electric
4 Reliability Organization for further consideration a pro-
5 posed reliability standard or a modification to a reliability
6 standard that the Commission disapproves in whole or in
7 part.

8 “(5) The Commission, upon a motion of the Commis-
9 sion or upon complaint, may order the Electric Reliability
10 Organization to submit to the Commission a proposed reli-
11 ability standard or a modification to a reliability standard
12 that addresses a specific matter if the Commission con-
13 siders such a new or modified reliability standard appro-
14 priate to carry out this section.

15 “(6)(A) The final rule adopted under subsection
16 (b)(2) shall include fair processes for the identification
17 and timely resolution of any conflict between a reliability
18 standard and any function, rule, order, tariff, rate sched-
19 ule, or agreement accepted, approved, or ordered by the
20 Commission applicable to a transmission organization.

21 “(B) The transmission organization shall continue to
22 comply with such function, rule, order, tariff, rate sched-
23 ule, or agreement as is accepted, approved, or ordered by
24 the Commission until—

1 “(i) the Commission finds a conflict exists be-
2 tween a reliability standard and any such provision;

3 “(ii) the Commission orders a change to the
4 provision pursuant to section 206; and

5 “(iii) the ordered change becomes effective
6 under this part.

7 “(C) If the Commission determines that a reliability
8 standard needs to be changed as a result of such a con-
9 flict, the Commission shall order the ERO to develop and
10 file with the Commission a modified reliability standard
11 under paragraph (4) or (5).

12 “(e) ENFORCEMENT.—(1) Subject to paragraph (2),
13 the ERO may impose a penalty on a user or owner or
14 operator of the bulk-power system for a violation of a reli-
15 ability standard approved by the Commission under sub-
16 section (d) if the ERO, after notice and an opportunity
17 for a hearing—

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

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

23 “(2)(A) A penalty imposed under paragraph (1) may
24 take effect not earlier than the 31st day after the date

1 on which the ERO files with the Commission notice of the
2 penalty and the record of proceedings.

3 “(B) The penalty shall be subject to review by the
4 Commission upon—

5 “(i) a motion by the Commission; or

6 “(ii) application by the user, owner, or operator
7 that is the subject of the penalty filed not later than
8 30 days after the date on which the notice is filed
9 with the Commission.

10 “(C) Application to the Commission for review, or the
11 initiation of review by the Commission upon a motion of
12 the Commission, shall not operate as a stay of the penalty
13 unless the Commission orders otherwise upon a motion of
14 the Commission or upon application by the user, owner,
15 or operator that is the subject of the penalty.

16 “(D) In any proceeding to review a penalty imposed
17 under paragraph (1), the Commission, after notice and op-
18 portunity for hearing (which hearing may consist solely
19 of the record before the ERO and opportunity for the
20 presentation of supporting reasons to affirm, modify, or
21 set aside the penalty), shall by order affirm, set aside, re-
22 instate, or modify the penalty, and, if appropriate, remand
23 to the ERO for further proceedings.

24 “(E) The Commission shall implement expedited pro-
25 cedures for hearings described in subparagraph (D).

1 “(3) Upon a motion of the Commission or upon com-
2 plaint, the Commission may order compliance with a reli-
3 ability standard and may impose a penalty against a user
4 or owner or operator of the bulk-power system if the Com-
5 mission finds, after notice and opportunity for a hearing,
6 that the user or owner or operator of the bulk-power sys-
7 tem has engaged or is about to engage in any act or prac-
8 tice that constitutes or will constitute a violation of a reli-
9 ability standard.

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

15 “(i) the regional entity is governed by an inde-
16 pendent board, a balanced stakeholder board, or a
17 combination of an independent and balanced stake-
18 holder board;

19 “(ii) the regional entity otherwise meets the re-
20 quirements of paragraphs (1) and (2) of subsection
21 (c); and

22 “(iii) the agreement promotes effective and effi-
23 cient administration of bulk-power system reliability.

24 “(B) The Commission may modify a delegation under
25 this paragraph.

1 “(C) The ERO and the Commission shall rebuttably
2 presume that a proposal for delegation to a regional entity
3 organized on an interconnection-wide basis promotes effective and efficient administration of bulk-power system reliability and should be approved.

6 “(D) The regulations issued under this paragraph
7 may provide that the Commission may assign the authority of the ERO to enforce reliability standards under paragraph (1) directly to a regional entity in accordance with
9 this paragraph.
10

11 “(5) The Commission may take such action as the
12 Commission determines to be appropriate against the
13 ERO or a regional entity to ensure compliance with a reliability standard or any Commission order affecting the
14 ERO or a regional entity.
15

16 “(6) Any penalty imposed under this section shall
17 bear a reasonable relation to the seriousness of the violation and shall take into consideration the efforts of the
18 user, owner, or operator to remedy the violation in a timely manner.
19

21 “(f) CHANGES IN ELECTRIC RELIABILITY ORGANIZATION RULES.—(1) The Electric Reliability Organization
22 shall file with the Commission for approval any proposed
23 rule or proposed rule change, accompanied by an explanation.
24

1 nation of the basis and purpose of the rule and proposed
2 rule change.

3 “(2) The Commission, upon a motion of the Commis-
4 sion or upon complaint, may propose a change to the rules
5 of the ERO.

6 “(3) A proposed rule or proposed rule change shall
7 take effect upon a finding by the Commission, after notice
8 and opportunity for comment, that the change is just, rea-
9 sonable, not unduly discriminatory or preferential, is in
10 the public interest, and meets the requirements of sub-
11 section (c).

12 “(g) RELIABILITY REPORTS.—The ERO shall con-
13 duct periodic assessments of the reliability and adequacy
14 of the bulk-power system in North America.

15 “(h) COORDINATION WITH CANADA AND MEXICO.—
16 The President is urged to negotiate international agree-
17 ments with the governments of Canada and Mexico to pro-
18 vide for effective compliance with reliability standards and
19 the effectiveness of the ERO in the United States and
20 Canada or Mexico.

21 “(i) SAVINGS PROVISIONS.—(1) The ERO may de-
22 velop and enforce compliance with reliability standards for
23 only the bulk-power system.

24 “(2) Nothing in this section authorizes the ERO or
25 the Commission to order the construction of additional

1 generation or transmission capacity or to set and enforce
2 compliance with standards for adequacy or safety of elec-
3 tric facilities or services.

4 “(3) Nothing in this section preempts any authority
5 of any State to take action to ensure the safety, adequacy,
6 and reliability of electric service within that State, as long
7 as such action is not inconsistent with any reliability
8 standard.

9 “(4) Not later than 90 days after the date of applica-
10 tion of the Electric Reliability Organization or other af-
11 fected party, and after notice and opportunity for com-
12 ment, the Commission shall issue a final order deter-
13 mining whether a State action is inconsistent with a reli-
14 ability standard, taking into consideration any rec-
15 ommendation of the ERO.

16 “(5) The Commission, after consultation with the
17 ERO and the State taking action, may stay the effective-
18 ness of any State action, pending the issuance by the Com-
19 mission of a final order.

20 “(j) REGIONAL ADVISORY BODIES.—(1) The Com-
21 mission shall establish a regional advisory body on the pe-
22 tition of at least $\frac{2}{3}$ of the States within a region that have
23 more than $\frac{1}{2}$ of the electric load of the States served with-
24 in the region.

25 “(2) A regional advisory body—

1 “(A) shall be composed of 1 member from each
2 participating State in the region, appointed by the
3 Governor of the State; and

4 “(B) may include representatives of agencies,
5 States, and provinces outside the United States.

6 “(3) A regional advisory body may provide advice to
7 the Electric Reliability Organization, a regional entity, or
8 the Commission regarding—

9 “(A) the governance of an existing or proposed
10 regional entity within the same region;

11 “(B) whether a standard proposed to apply
12 within the region is just, reasonable, not unduly dis-
13 criminatory or preferential, and in the public inter-
14 est;

15 “(C) whether fees proposed to be assessed with-
16 in the region are just, reasonable, not unduly dis-
17 criminatory or preferential, and in the public inter-
18 est; and

19 “(D) any other responsibilities requested by the
20 Commission.

21 “(4) The Commission may give deference to the ad-
22 vice of a regional advisory body if that body is organized
23 on an interconnection-wide basis.

24 “(k) ALASKA AND HAWAII.—This section does not
25 apply to Alaska or Hawaii.”.

1 (b) STATUS OF ERO.—The Electric Reliability Orga-
2 nization certified by the Federal Energy Regulatory Com-
3 mission under section 215(c) of the Federal Power Act
4 (as added by subsection (a)) and any regional entity dele-
5 gated enforcement authority pursuant to section 215(e)(4)
6 of that Act (as so added) are not departments, agencies,
7 or instrumentalities of the United States Government.

8 **SEC. 102. MODEL ELECTRIC UTILITY WORKERS CODE.**

9 Subtitle B of title I of the Public Utility Regulatory
10 Policies Act of 1978 (16 U.S.C. 2621 et seq.) is amended
11 by adding at the end the following:

12 **“SEC. 118. MODEL CODE FOR ELECTRIC UTILITY WORKERS.**

13 “(a) IN GENERAL.—The Secretary shall develop by
14 rule and circulate among the States for their consideration
15 a model code containing standards for electric facility
16 workers to ensure electric facility safety and reliability.

17 “(b) CONSULTATION.—In developing the standards,
18 the Secretary shall consult with all interested parties, in-
19 cluding representatives of electric facility workers.

20 “(c) NOT AFFECTING OCCUPATIONAL SAFETY AND
21 HEALTH.—In issuing a model code under this section, the
22 Secretary shall not, for purposes of section 4 of the Occu-
23 pational Safety and Health Act of 1970 (29 U.S.C. 653),
24 be deemed to be exercising statutory authority to prescribe

1 or enforce standards or regulations affecting occupational
2 safety and health.”.

3 **SEC. 103. ELECTRICITY OUTAGE INVESTIGATION.**

4 Part III of the Federal Power Act (16 U.S.C. 824)
5 is amended—

6 (1) by redesignating sections 320 and 321 (16
7 U.S.C. 825r, 791a) as sections 321 and 322, respec-
8 tively; and

9 (2) by inserting after section 319 (16 U.S.C.
10 825q) the following:

11 **“SEC. 320. ELECTRICITY OUTAGE INVESTIGATION BOARD.**

12 “(a) ESTABLISHMENT.—There is established an
13 Electricity Outage Investigation Board that shall be an
14 independent establishment within the executive branch.

15 “(b) MEMBERSHIP.—(1) The Board shall consist of
16 7 members and shall include—

17 “(A) the Secretary of Energy (or a designee);

18 “(B) the Chairperson of the Federal Energy
19 Regulatory Commission (or a designee);

20 “(C) a representative of the National Academy
21 of Sciences appointed by the President;

22 “(D) a representative nominated by the major-
23 ity leader of the Senate and appointed by the Presi-
24 dent;

1 “(E) a representative nominated by the minor-
2 ity leader of the Senate and appointed by the Presi-
3 dent;

4 “(F) a representative nominated by the major-
5 ity leader of the House of Representatives and ap-
6 pointed by the President; and

7 “(G) a representative nominated by the minor-
8 ity leader of the House of Representatives and ap-
9 pointed by the President.

10 “(2) Each member of the Board shall demonstrate
11 relevant expertise in the field of electricity generation,
12 transmission, and distribution, and such other expertise
13 as will best assist in carrying out the duties of the Board.

14 “(c) TERMS.—(1) Except as provided in paragraph
15 (2), each member of the Board shall serve for a term of
16 3 years.

17 “(2) The Secretary of Energy and the Chairperson
18 of the Federal Energy Regulatory Commission shall be
19 permanent members of the Board.

20 “(d) DUTIES.—The Board shall—

21 “(1) upon request by Congress or the Presi-
22 dent, investigate a major bulk-power system failure
23 in the United States to determine the causes of the
24 failure;

1 “(2) report expeditiously to Congress and the
2 President the results of the investigation; and

3 “(3) recommend to Congress and the President
4 actions to minimize the possibility of future bulk-
5 power system failure.

6 “(e) COMPENSATION.—(1) Each member of the
7 Board shall be paid at the rate payable for level III of
8 the Executive Schedule for each day (including travel
9 time) the member is engaged in the work of the Board.

10 “(2) Each member of the Board may receive travel
11 expenses, including per diem in lieu of subsistence, in the
12 same manner as is permitted under sections 5702 and
13 5703 of title 5, United States Code.”.

14 **SEC. 104. STUDY ON RELIABILITY OF UNITED STATES ELEC-**
15 **TRICITY GRID.**

16 (a) STUDY ON RELIABILITY.—Not later than 45 days
17 after the date of enactment of this Act, the Secretary of
18 Energy shall enter into a contract with the National Acad-
19 emy of Sciences under which the Academy shall conduct
20 a study on the reliability of the United States electricity
21 grid to examine the effectiveness of the current United
22 States electricity transmission and distribution system at
23 providing efficient, secure, and affordable power to United
24 States consumers.

1 (b) CONTENTS.—The study shall include an analysis
2 of—

3 (1) the vulnerability of the transmission and
4 distribution system to disruption by natural, me-
5 chanical or human causes including sabotage;

6 (2) the most efficient and cost-effective solu-
7 tions for dealing with vulnerabilities or other prob-
8 lems of the electricity transmission and distribution
9 system of the United States, including a comparison
10 of investments in—

11 (A) efficiency;

12 (B) distributed generation;

13 (C) technical advances in software and
14 other devices to improve the efficiency and reli-
15 ability of the grid;

16 (D) new power line construction; and

17 (E) any other relevant matters.

18 (c) REPORT.—The contract shall provide that, not
19 later than 180 days after the date of execution of the con-
20 tract, the National Academy of Sciences shall submit to
21 the President and Congress a report that details the find-
22 ings and recommendations of the study.

23 **TITLE II—EFFICIENCY**

24 **SEC. 201. SYSTEM BENEFITS FUND.**

25 (a) DEFINITIONS.—In this section:

1 (1) ADMINISTRATOR.—The term “Adminis-
2 trator” means the Administrator of the Environ-
3 mental Protection Agency.

4 (2) BOARD.—The term “Board” means the
5 System Benefits Trust Fund Board established
6 under subsection (b).

7 (3) COMMISSION.—The term “Commission”
8 means the Federal Energy Regulatory Commission.

9 (4) FARM SYSTEM.—The term “farm system”
10 means an electric generating facility that generates
11 electric energy from the anaerobic digestion of agri-
12 cultural waste produced by farming that is located
13 on the farm where substantially all of the waste used
14 is produced.

15 (5) FUND.—The term “Fund” means the Sys-
16 tem Benefits Trust Fund established under sub-
17 section (c).

18 (6) RENEWABLE ENERGY.—The term “renew-
19 able energy” means electricity generated from wind,
20 ocean energy, organic waste (excluding incinerated
21 municipal solid waste), biomass (including anaerobic
22 digestion from farm systems and landfill gas recov-
23 ery) or a geothermal, solar thermal, or photovoltaic
24 source.

1 (7) SECRETARY.—The term “Secretary” means
2 the Secretary of Energy.

3 (b) BOARD.—

4 (1) ESTABLISHMENT.—The Secretary shall es-
5 tablish a System Benefits Trust Fund Board to
6 carry out the functions and responsibilities described
7 in this section.

8 (2) MEMBERSHIP.—The Board shall be com-
9 posed of—

10 (A) 1 representative of the Federal Energy
11 Regulatory Commission appointed by the Fed-
12 eral Energy Regulatory Commission;

13 (B) 2 representatives of the Secretary of
14 Energy appointed by the Secretary;

15 (C) 2 persons nominated by the National
16 Association of Regulatory Utility Commis-
17 sioners and appointed by the Secretary;

18 (D) 1 person nominated by the National
19 Association of State Utility Consumer Advo-
20 cates and appointed by the Secretary;

21 (E) 1 person nominated by the National
22 Association of State Energy Officials and ap-
23 pointed by the Secretary;

1 (F) 1 person nominated by the National
2 Energy Assistance Directors' Association and
3 appointed by the Secretary; and

4 (G) 1 representative of the Environmental
5 Protection Agency appointed by the Adminis-
6 trator.

7 (3) CHAIRPERSON.—The Secretary shall select
8 a member of the Board to serve as Chairperson of
9 the Board.

10 (c) ESTABLISHMENT OF FUND.—

11 (1) IN GENERAL.—The Board shall establish an
12 account or accounts at 1 or more financial institu-
13 tions, which account or accounts shall—

14 (A) be known as the “System Benefits
15 Trust Fund”; and

16 (B) consist of amounts deposited in the
17 Fund under subsection (e).

18 (2) STATUS OF FUND.—The wires charges col-
19 lected under subsection (e) and deposited in the
20 Fund—

21 (A) shall not constitute funds of the
22 United States;

23 (B) shall be held in trust by the Board
24 solely for the purposes stated in subsection (d);
25 and

1 (C) shall not be available to meet any obli-
2 gations of the United States.

3 (d) USE OF FUND.—

4 (1) FUNDING OF STATE PROGRAMS.—Amounts
5 in the Fund shall be used by the Board to provide
6 matching funds to States and Indian tribes for the
7 support of State or tribal public benefits programs
8 relating to—

9 (A) energy conservation and efficiency;

10 (B) renewable energy sources;

11 (C) assisting low-income households in
12 meeting their home energy needs; or

13 (D) research and development in areas de-
14 scribed in subparagraphs (A) through (C).

15 (2) DISTRIBUTION.—

16 (A) IN GENERAL.—Except for amounts
17 needed to pay costs of the Board in carrying
18 out its duties under this section, the Board
19 shall distribute all amounts in the Fund to
20 States or Indian tribes to fund public benefits
21 programs under paragraph (1).

22 (B) FUND SHARE.—

23 (i) IN GENERAL.—Subject to clause
24 (iii), the Fund share of a public benefits

1 program funded under paragraph (1) shall
2 be 50 percent.

3 (ii) PROPORTIONATE REDUCTION.—

4 To the extent that the amount of matching
5 funds requested by States and Indian
6 tribes exceeds the maximum projected rev-
7 enues of the Fund, the matching funds dis-
8 tributed to each State and Indian tribe
9 shall be reduced by an amount equal to the
10 proportion that the annual consumption of
11 electricity of the State or Indian tribe
12 bears to the annual consumption of elec-
13 tricity of all States and Indian tribes.

14 (iii) ADDITIONAL STATE OR INDIAN

15 TRIBE FUNDING.—A State or Indian tribe
16 may apply funds to public benefits pro-
17 grams in addition to the amount of funds
18 applied for the purpose of matching the
19 Fund share.

20 (3) PROGRAM CRITERIA.—The Board shall rec-
21 ommend eligibility criteria for public benefits pro-
22 grams funded under this section for approval by the
23 Secretary.

24 (4) APPLICATION.—Not later than August 1 of
25 each year beginning in 2006, a State or Indian tribe

1 seeking matching funds for the following fiscal year
2 shall file with the Board, in such form as the Board
3 may require, an application—

4 (A) certifying that the funds will be used
5 for an eligible public benefits program;

6 (B) stating the amount of State or Indian
7 tribe funds earmarked for the program; and

8 (C) summarizing how amounts from the
9 Fund from the previous calendar year (if any)
10 were spent by the State and what the State ac-
11 complished as a result of the expenditures.

12 (e) WIRES CHARGE.—

13 (1) DETERMINATION OF NEEDED FUNDING.—

14 Not later than September 1 of each year, the Board
15 shall determine and inform the Commission of the
16 aggregate amount of wires charges that will be nec-
17 essary to be paid into the Fund to pay matching
18 funds to States and Indian tribes and pay the oper-
19 ating costs of the Board in the following fiscal year.

20 (2) IMPOSITION OF WIRES CHARGE.—

21 (A) IN GENERAL.—Not later than Decem-
22 ber 15 of each year, the Commission shall im-
23 pose a nonbypassable, competitively neutral
24 wires charge, to be paid directly into the Fund
25 by the operator of the wire, on electricity car-

1 ried through the wire (measured as the elec-
2 tricity exits at the busbar at a generation facil-
3 ity, or, for electricity generated outside the
4 United States, at the point of delivery to the
5 wire operator's system) in interstate commerce.

6 (B) AMOUNT.—The wires charge shall be
7 set at a rate equal to the lesser of—

8 (i) 1.0 mills per kilowatt hour; or

9 (ii) a rate that is estimated to result
10 in the collection of an amount of wires
11 charges that is, to the maximum extent
12 practicable, equal to the amount of needed
13 funding determined under paragraph (1).

14 (3) DEPOSIT IN THE FUND.—The wires charge
15 shall be paid by the operator of the wire directly into
16 the Fund at the end of each month during the cal-
17 endar year for distribution by the Board under sub-
18 section (c).

19 (4) PENALTIES.—The Commission may assess
20 against a wire operator that fails to pay a wires
21 charge as required by this subsection a civil penalty
22 in an amount equal to not more than the amount of
23 the unpaid wires charge.

24 (f) AUDITING.—

1 (1) IN GENERAL.—The Fund shall be audited
2 annually by a firm of independent certified public
3 accountants in accordance with generally accepted
4 auditing standards.

5 (2) ACCESS TO RECORDS.—Representatives of
6 the Secretary and the Commission shall have access
7 to all books, accounts, reports, files, and other
8 records pertaining to the Fund as necessary to fa-
9 cilitate and verify the audit.

10 (3) REPORTS.—

11 (A) IN GENERAL.—A report on each audit
12 shall be submitted to the Secretary, the Com-
13 mission, and the Secretary of the Treasury, who
14 shall submit the report to the President and
15 Congress not later than 180 days after the end
16 of the fiscal year.

17 (B) REQUIREMENTS.—An audit report
18 shall—

19 (i) set forth the scope of the audit;

20 and

21 (ii) include—

22 (I) a statement of assets and li-
23 abilities, capital, and surplus or def-
24 icit;

25 (II) a surplus of deficit analysis;

1 (III) a statement of income and
2 expenses;

3 (IV) any other information that
4 may be considered necessary to keep
5 the President and Congress informed
6 of the operations and financial condi-
7 tion of the Fund; and

8 (V) any recommendations with
9 respect to the Fund that the Sec-
10 retary or the Commission may have.

11 **SEC. 202. ELECTRICITY EFFICIENCY PERFORMANCE**
12 **STANDARD.**

13 Title VI of the Public Utility Regulatory Policies Act
14 of 1978 (16 U.S.C. 2621 note) is amended by adding at
15 the end the following:

16 **“SEC. 609. FEDERAL ELECTRICITY EFFICIENCY PERFORM-**
17 **ANCE STANDARD.**

18 “(a) IN GENERAL.—Each electric retail supplier shall
19 implement energy efficiency and load reduction programs
20 and measures to achieve verified improvements in energy
21 efficiency and peak load reduction in retail customer facili-
22 ties and the distribution systems that serve those facilities.

23 “(b) POWER SAVINGS.—The programs and measures
24 under subsection (a) shall produce savings in total peak
25 power demand and total electricity use by retail customers

1 by an amount that is equal to or greater than the following
 2 percentages relative to the peak demand and electricity
 3 used in that year by the retail electric supplier’s cus-
 4 tomers:

	Reduction in demand	Reduction in use
In calendar year 2006	1%	.75%
In calendar year 2007	2%	1.5%
In calendar year 2009	4%	3.0%
In calendar year 2011	6%	4.5%
In calendar year 2013	8%	6.0%
In calendar year 2015	10%	7.5%

5 “(c) BEGINNING DATE.—For purposes of this sec-
 6 tion, savings shall be counted only for measures installed
 7 after January 1, 2006.

8 “(d) RULEMAKING.—(1) Not later than June 30,
 9 2005, the Secretary shall establish, by rule—

10 “(A) procedures and standards for counting
 11 and independently verifying energy and demand sav-
 12 ings for purposes of enforcing the energy efficiency
 13 performance standards imposed by this section; and

14 “(B) procedures and a schedule for reporting
 15 findings to the Department of Energy and for mak-
 16 ing the reports available to the public.

17 “(2) In developing the procedures, standards, and
 18 schedule under paragraph (1), the Secretary shall consult
 19 with—

20 “(A) the association representing public utility
 21 regulators in the United States; and

1 “(B) the association representing the State en-
2 ergy officials in the United States.

3 “(e) REPORTING.—(1) Not later than June 30, 2008,
4 and every 2 years thereafter, each retail electric supplier
5 shall file with the State public utilities commission in each
6 State in which the supplier provides service to retail cus-
7 tomers a report demonstrating that the retail electric sup-
8 plier has taken action to comply with the energy efficiency
9 performance standards of this section.

10 “(2) A report filed under paragraph (1) shall include
11 independent verification of the estimated savings pursuant
12 to standards established by the Secretary.

13 “(3)(A) A State public utilities commission may—

14 “(i) accept a report as filed under paragraph
15 (1); or

16 “(ii) review and investigate the accuracy of the
17 report.

18 “(B) Each State public utilities commission shall—

19 “(i) make findings on any deficiencies relating
20 to the requirements under section 2; and

21 “(ii) issue a remedial order for the correction of
22 any deficiencies that are found.

23 “(f) UTILITIES OUTSIDE STATE JURISDICTION.—(1)

24 An electric retail supplier that is not subject to the juris-
25 diction of a State public utilities commission shall submit

1 reports in accordance with subsection (e) to the governing
2 body of the electric retail supplier.

3 “(2) A report submitted under paragraph (1) shall
4 include independent verification of the estimated savings
5 pursuant to standards established by the Secretary.

6 “(g) PROGRAM PARTICIPATION.—(1) An electric re-
7 tail supplier may demonstrate satisfaction of the standard
8 under this section, in whole or part, by savings achieved
9 through participation in statewide, regional, or national
10 programs that can be demonstrated to significantly im-
11 prove the efficiency of electric distribution and use.

12 “(2) Verified efficiency savings resulting from pro-
13 grams described in paragraph (1) may be assigned to each
14 participating retail supplier based upon the degree of par-
15 ticipation of the supplier in the programs.

16 “(3) An electric retail supplier may purchase rights
17 to extra savings achieved by other electric retail suppliers
18 if the selling supplier or another electric retail supplier
19 does not also take credit for those savings.

20 “(h) REMEDIES FOR FAILURE TO COMPLY.—(1) In
21 the event that any retail electric supplier fails to achieve
22 its energy savings or load reduction target for a specific
23 year, any aggrieved party may bring a civil action or file
24 an administrative claim to seek prompt remedial action
25 before a State public utilities commission (or, in the case

1 of an electric retail supplier not subject to State public
2 utility commission jurisdiction, before an appropriate gov-
3 erning body).

4 “(2)(A) The State public utilities commission or
5 other appropriate governing body shall have a maximum
6 of 1 year to craft a remedy for a civil action or claim filed
7 under paragraph (1).

8 “(B) If a State public utilities commission or other
9 governing body certifies that the commission or body has
10 inadequate resources or authority to promptly resolve en-
11 forcement actions under this section, or fails to take action
12 within the time period specified in subparagraph (A), the
13 commission or body or an aggrieved party may seek en-
14 forcement in Federal district court.

15 “(3)(A) If a commission or court determines that en-
16 ergy savings or load reduction targets for a specific year
17 have not been achieved by a retail electric supplier under
18 this section, the commission or court shall—

19 “(i) determine the amount of the deficit; and

20 “(ii) fashion an equitable remedy to restore the
21 lost savings as soon as practicable.

22 “(B) A remedy under subparagraph (A)(ii) may in-
23 clude—

1 “(i) a refund to retail electric customers of an
2 amount equal to the retail cost of the electricity con-
3 sumed due to the failure to reach the target; and

4 “(ii) the appointment of a special master to ad-
5 minister a bidding system to procure the energy and
6 demand savings equal to 125 percent of the deficit.”.

7 **SEC. 203. APPLIANCE EFFICIENCY.**

8 Section 325(d)(3) of the Energy Policy and Con-
9 servation Act (42 U.S.C. 6295(d)(3)) is amended by strik-
10 ing subparagraph (B) and inserting the following:

11 “(B) Not later than January 1, 2009, the Secretary
12 shall publish a final rule to determine whether the stand-
13 ards in effect for central air conditioners and central air
14 conditioning heat pumps should be amended. The rule
15 shall address both system annual energy use and peak
16 electric demand and may include more than 1 efficiency
17 descriptor. The rule shall apply to products manufactured
18 on or after January 1, 2012.”.

19 **SEC. 204. LOAN GUARANTEES.**

20 (a) DEFINITIONS.—In this section:

21 (1) ELIGIBLE ACTIVITY.—The term “eligible
22 activity” means—

23 (A) advanced technologies for high-effi-
24 ciency electricity transmission control and oper-
25 ation, including high-efficiency power elec-

1 trionics technologies (including software-con-
2 trolled computer chips and sensors to diagnose
3 trouble spots and re-route power into appro-
4 priate areas), high-efficiency electricity storage
5 systems, and high-efficiency transmission wire
6 or transmission cable system;

7 (B) distributed generation systems fueled
8 solely by—

9 (i) solar, wind, biomass, geothermal,
10 or ocean energy;

11 (ii) landfill gas;

12 (iii) natural gas systems utilizing best
13 available control technology;

14 (iv) fuel cells; or

15 (v) any combination of the above;

16 (C) combined heat and power systems; and

17 (D) energy efficiency systems producing
18 demonstrable electricity savings.

19 (2) QUALIFYING ENTITY.—The term “quali-
20 fying entity” means an individual, corporation, part-
21 nership, joint venture, trust or other entity identified
22 by the Secretary under subsection (d)(1) as eligible
23 for a guaranteed loan under this section.

24 (3) SECRETARY.—The term “Secretary” means
25 the Secretary of Energy.

1 (b) AUTHORITY.—The Secretary may guarantee not
2 more than 50 percent of the principal of any loan made
3 to a qualifying entity for eligible activities under this sec-
4 tion.

5 (c) CONDITIONS.—

6 (1) IN GENERAL.—The Secretary shall not
7 guarantee a loan under this section unless—

8 (A) the guarantee is a qualifying entity;

9 (B) the guarantee has filed an application
10 with the Secretary;

11 (C) the project, activity, program, or sys-
12 tem for which the loan is made is an eligible ac-
13 tivity; and

14 (D) the project, activity, program, or sys-
15 tem for which the loan is made will significantly
16 enhance the reliability, security, efficiency, and
17 cost-effectiveness of electricity generation,
18 transmission or distribution.

19 (2) PRIORITY.—The Secretary shall give pri-
20 ority to guaranteed loans under this section for eligi-
21 ble activities that accomplish the objectives of this
22 section in the most environmentally beneficial man-
23 ner.

24 (3) ELIGIBLE FINANCIAL INSTITUTIONS.—A
25 loan guaranteed under this section shall be made by

1 a financial institution subject to the examination of
2 the Secretary.

3 (d) RULES.—Not later than 1 year after the date of
4 enactment of this section, the Secretary shall publish a
5 final rule establishing guidelines for loan requirements
6 under this section, including establishment of—

7 (1) criteria for determining which entities shall
8 be considered qualifying entities eligible for loan
9 guarantees under this section;

10 (2) criteria for determining which projects, ac-
11 tivities, programs, or systems shall be considered eli-
12 gible activities eligible for loan guarantees in accord-
13 ance with the purposes of this section;

14 (3) loan requirements including term, maximum
15 size, collateral requirements; and

16 (4) any other relevant features.

17 (e) LIMITATION ON SIZE.—The Secretary may make
18 commitments to guarantee loans under this section only
19 to the extent that the total principal, any part of which
20 is guaranteed, will not exceed \$10,000,000,000.

21 (f) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary such
23 sums as are necessary to cover the cost of loan guarantees
24 (as defined by section 502(5) of the Federal Credit Re-
25 form Act of 1990 (2. U.S.C. 661a(5))) under this section.

1 **TITLE III—ONSITE GENERATION**

2 **SEC. 301. NET METERING.**

3 (a) ADOPTION OF STANDARD.—Section 111(d) of the
4 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
5 2621(d)) is amended by adding at the end the following:

6 “(11) NET METERING.—

7 “(A) IN GENERAL.—Each electric utility shall
8 make available upon request net metering service to
9 any electric consumer that the electric utility serves.

10 “(B) REFERENCES.—For purposes of imple-
11 menting this paragraph, any reference contained in
12 this section to the date of enactment of this Act
13 shall be deemed to be a reference to the date of en-
14 actment of this paragraph.”.

15 (b) SPECIAL RULES FOR NET METERING.—Section
16 115 of the Public Utility Regulatory Policies Act of 1978
17 (16 U.S.C. 2625) is amended by adding at the end the
18 following:

19 “(i) NET METERING.—(1) In this subsection:

20 “(A) The term ‘eligible onsite generating facil-
21 ity’ means—

22 “(i) a facility on the site of a residential
23 electric consumer with a maximum generating
24 capacity of 25 kilowatts or less; or

1 “(ii) a facility on the site of a commercial
2 electric consumer with a maximum generating
3 capacity of 1,000 kilowatts or less,
4 that is fueled solely by a renewable energy resource.

5 “(B) The term ‘net metering service’ means
6 service to an electric consumer under which electric
7 energy generated by that electric consumer from an
8 eligible onsite generating facility and delivered to the
9 local distribution facilities may be used to offset
10 electric energy provided by the electric utility to the
11 electric consumer during the applicable billing pe-
12 riod.

13 “(C) The term ‘renewable energy resource’
14 means—

15 “(i) solar, wind, biomass, geothermal, or
16 wave energy;

17 “(ii) landfill gas;

18 “(iii) fuel cells; and

19 “(iv) a combined heat and power system.

20 “(2) In undertaking the consideration and making
21 the determination concerning net metering established by
22 section 111(d)(11), the following shall apply:

23 “(A) An electric utility—

24 “(i) shall charge the owner or operator of
25 an onsite generating facility rates and charges

1 that are identical to those that would be
2 charged other electric consumers of the electric
3 utility in the same rate class; and

4 “(ii) shall not charge the owner or operator
5 of an onsite generating facility any additional
6 standby, capacity, interconnection, or other rate
7 or charge.

8 “(B) An electric utility that sells electric energy
9 to the owner or operator of an onsite generating fa-
10 cility shall measure the quantity of electric energy
11 produced by the onsite facility and the quantity of
12 electricity consumed by the owner or operator of an
13 onsite generating facility during a billing period in
14 accordance with normal metering practices.

15 “(C) If the quantity of electric energy sold by
16 the electric utility to an on-site generating facility
17 exceeds the quantity of electric energy supplied by
18 the onsite generating facility to the electric utility
19 during the billing period, the electric utility may bill
20 the owner or operator for the net quantity of electric
21 energy sold, in accordance with normal metering
22 practices.

23 “(D) If the quantity of electric energy supplied
24 by the onsite generating facility to the electric utility
25 exceeds the quantity of electric energy sold by the

1 electric utility to the onsite generating facility during
2 the billing period—

3 “(i) the electric utility may bill the owner
4 or operator of the onsite generating facility for
5 the appropriate charges for the billing period in
6 accordance with subparagraph (B); and

7 “(ii) the owner or operator of the onsite
8 generating facility shall be credited for the ex-
9 cess kilowatt-hours generated during the billing
10 period, with the kilowatt-hour credit appearing
11 on the bill for the following billing period.

12 “(E) An eligible onsite generating facility and
13 net metering system used by an electric consumer
14 shall meet all applicable safety, performance, reli-
15 ability, and interconnection standards established by
16 the National Electrical Code, the Institute of Elec-
17 trical and Electronics Engineers, and Underwriters
18 Laboratories.

19 “(F) The Commission, after consultation with
20 State regulatory authorities and nonregulated elec-
21 tric utilities and after notice and opportunity for
22 comment, may adopt, by rule, additional control and
23 testing requirements for onsite generating facilities
24 and net metering systems that the Commission de-

1 termines are necessary to protect public safety and
2 system reliability.

3 “(G) An electric utility must provide net meter-
4 ing services to electric consumers until the cumu-
5 lative generating capacity of net metering systems
6 equals 1.0 percent of the utility’s peak demand dur-
7 ing the most recent calendar year.

8 “(H) Nothing in this subsection precludes a
9 State from imposing additional requirements regard-
10 ing the amount of net metering available within a
11 State consistent with the requirements of this sec-
12 tion.”.

13 **SEC. 302. INTERCONNECTION.**

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

16 (1) by striking paragraph 23 and inserting the
17 following:

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

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

1 “(26) APPROPRIATE REGULATORY AUTHOR-
2 ITY.—The term ‘appropriate regulatory authority’
3 means—

4 “(A) the Commission;

5 “(B) a State commission;

6 “(C) a municipality; or

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

9 “(27) GENERATING FACILITY.—The term ‘gen-
10 erating facility’ means a facility that generates elec-
11 tric energy.

12 “(28) LOCAL DISTRIBUTION UTILITY.—The
13 term ‘local distribution facility’ means an entity that
14 owns, controls, or operates an electric power dis-
15 tribution facility that is used for the sale of electric
16 energy.

17 “(29) NON-FEDERAL REGULATORY AUTHOR-
18 ITY.—The term ‘non-Federal regulatory authority’
19 means an appropriate regulatory authority other
20 than the Commission.”.

21 (b) INTERCONNECTION TO DISTRIBUTION FACILI-
22 TIES.—Section 210 of the Federal Power Act (16 U.S.C.
23 824i) is amended—

24 (1) by redesignating subsection (e) as sub-
25 section (g); and

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

3 “(e) INTERCONNECTION TO DISTRIBUTION FACILI-
4 TIES.—(1)(A) A local distribution utility shall inter-
5 connect a generating facility with the distribution facilities
6 of the local distribution utility if the owner of the gener-
7 ating facility—

8 “(i) complies with the final rule promulgated
9 under paragraph (2); and

10 “(ii) pays the costs of the interconnection.

11 “(B) The costs of the interconnection—

12 “(i) shall be just and reasonable, and not un-
13 duly discriminatory or preferential, as determined by
14 the appropriate regulatory authority; and

15 “(ii) shall be comparable to the costs charged
16 by the local distribution utility for interconnection by
17 any similarly situated generating facility to the dis-
18 tribution facilities of the local distribution utility.

19 “(C) The right of a generating facility to interconnect
20 under subparagraph (A) does not relieve the generating
21 facility or the local distribution utility of other Federal,
22 State, or local requirements.

23 “(2) Not later than 180 days after the date of enact-
24 ment of this subparagraph, the Commission shall promul-
25 gate final rules establishing reasonable and appropriate

1 technical standards for the interconnection of a generating
2 facility with the distribution facilities of a local distribu-
3 tion utility.

4 “(3)(A) In accordance with subparagraph (B) a local
5 distribution utility shall offer to sell backup power to a
6 generating facility that has interconnected with the local
7 distribution utility to the extent that the local distribution
8 utility—

9 “(i) is not subject to an order of a non-Federal
10 regulatory authority to provide open access to the
11 distribution facilities of the local distribution utility;

12 “(ii) has not offered to provide open access to
13 the distribution facilities of the local distribution
14 utility; or

15 “(iii) does not allow a generating facility to pur-
16 chase backup power from another entity using the
17 distribution facilities of the local distribution utility.

18 “(B) A sale of backup power under subparagraph (A)
19 shall be at such a rate, and under such terms and condi-
20 tions as are just and reasonable and not unduly discrimi-
21 natory or preferential, taking into account the actual in-
22 cremental cost, whenever incurred by the local distribution
23 utility, to supply such backup power service during the pe-
24 riod in which the backup power service is provided, as de-
25 termined by the appropriate regulatory authority.

1 “(C) A local distribution utility shall not be required
2 to offer backup power for resale to any entity other than
3 the entity for which the backup power is purchased.

4 “(D) To the extent backup power is used to serve
5 a new or expanded load on the distribution system, the
6 generating facility shall pay any reasonable cost associated
7 with any transmission, distribution, or generating upgrade
8 required to provide such service.”.

9 (c) INTERCONNECTION TO TRANSMISSION FACILI-
10 TIES.—Section 210 of the Federal Power Act (16 U.S.C.
11 824i) (as amended by subsection (b)) is amended by in-
12 serting after subsection (e) the following:

13 “(f) INTERCONNECTION TO TRANSMISSION FACILI-
14 TIES.—(1)(A) Notwithstanding subsections (a) and (c), a
15 transmitting utility shall interconnect a generating facility
16 with the transmission facilities of the transmitting utility
17 if the owner of the generating facility—

18 “(i) complies with the final rules promulgated
19 under paragraph (2); and

20 “(ii) pays the costs of interconnection.

21 “(B) Subject to subparagraph (C), the costs of inter-
22 connection—

23 “(i) shall be just and reasonable and not unduly
24 discriminatory or preferential; and

1 “(ii) shall be comparable to the costs charged
2 by the transmitting utility for interconnection by any
3 similarly situated generating facility to the transmit-
4 ting facilities of the transmitting utility.

5 “(C) A non-Federal regulatory authority that is au-
6 thorized under Federal law to determine the rates for
7 transmission service shall be authorized to determine the
8 costs of any interconnection under this subparagraph.

9 “(D) The right of a generating facility to inter-
10 connect under subparagraph (A) does not relieve the gen-
11 erating facility or the transmitting utility of other Federal,
12 State, or local requirements.

13 “(2) Not later than 180 days after the date of enact-
14 ment of this subparagraph, the Commission shall promul-
15 gate rules establishing reasonable and appropriate tech-
16 nical standards for the interconnection of a generating fa-
17 cility with the transmission facilities of a transmitting util-
18 ity.

19 “(3)(A) In accordance with subparagraph (B), a
20 transmitting utility shall offer to sell backup power to a
21 generating facility that has interconnected with the trans-
22 mitting utility unless—

23 “(i) Federal or State law allows a generating
24 facility to purchase backup power from an entity
25 other than the transmitting utility; or

1 “(ii) a transmitting utility allows a generating
2 facility to purchase backup power from an entity
3 other than the transmitting utility using the trans-
4 mission facilities of the transmitting utility and the
5 transmission facilities of any other transmitting util-
6 ity.

7 “(B) A sale of backup power under subparagraph (A)
8 shall be at such a rate and under such terms and condi-
9 tions as are just and reasonable and not unduly discrimi-
10 natory or preferential, taking into account the actual in-
11 cremental cost, whenever incurred by the local distribution
12 utility, to supply such backup power service during the pe-
13 riod in which the backup power service is provided, as de-
14 termined by the appropriate regulatory authority.

15 “(C) A transmitting utility shall not be required to
16 offer backup power for resale to any entity other than the
17 entity for which the backup power is purchased.

18 “(D) To the extent backup power is used to serve
19 a new or expanded load on the transmission system, the
20 generating facility shall pay any reasonable costs associ-
21 ated with any transmission, distribution, or generation up-
22 grade required to provide the service.”.

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

25 (1) in subsection (a)(1)—

1 (A) by inserting “transmitting utility, local
2 distribution utility,” after “electric utility,”;
3 and

4 (B) in subparagraph (A), by inserting
5 “any transmitting utility,” after “small power
6 production facility,”;

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

9 (3) in subsection (c)(2)—

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

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

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

15 “(D) promote competition in electricity
16 markets, and”; and

17 (4) in subsection (d), by striking the last sen-
18 tence.

19 **SEC. 303. ONSITE GENERATION FOR EMERGENCY FACILI-**
20 **TIES.**

21 (a) **DEFINITIONS.**—In this section:

22 (1) **ELIGIBLE FACILITY.**—The term “eligible fa-
23 cility” means a building owned or operated by a
24 State or local government that is used for—

1 (A) critical governmental dispatch and
2 communication;

3 (B) police, fire, or emergency services;

4 (C) traffic control systems; or

5 (D) public water or sewer systems.

6 (2) RENEWABLE UNINTERRUPTIBLE POWER
7 SUPPLY SYSTEM.—The term “renewable
8 uninterruptible power supply system” means a sys-
9 tem designed to maintain electrical power to critical
10 loads in a public facility in the event of a loss or dis-
11 ruption in conventional grid electricity, where such
12 system derives its energy production or storage ca-
13 pacity solely from—

14 (A) solar, wind, biomass, geothermal, or
15 ocean energy;

16 (B) natural gas;

17 (C) landfill gas;

18 (D) a fuel cell device; or

19 (E) a combination of energy described in
20 subparagraphs (A) through (D).

21 (3) SECRETARY.—The term “Secretary” means
22 the Secretary of Energy.

23 (b) DEMONSTRATION AND TECHNOLOGY TRANSFER
24 PROGRAM.—The Secretary shall establish a demonstration
25 program for the implementation of innovative technologies

1 for renewable uninterruptible power supply systems lo-
2 cated in eligible buildings and for the dissemination of in-
3 formation on those systems to interested parties.

4 (c) LIMIT ON FEDERAL FUNDING.—The Secretary
5 shall provide not more than 40 percent of the costs of
6 projects funded under this section.

7 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
8 authorized to be appropriated to carry out this section
9 \$30,000,000 for each of fiscal years 2006 through 2009.

○