

114TH CONGRESS  
1ST SESSION

# S. 2384

To amend the Public Utility Regulatory Policies Act of 1978 to provide for the consideration by State regulatory authorities and nonregulated electric utilities of whether subsidies should be provided for the deployment, construction, maintenance, or operation of a customer-side technology.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2015

Mr. FLAKE introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Public Utility Regulatory Policies Act of 1978 to provide for the consideration by State regulatory authorities and nonregulated electric utilities of whether subsidies should be provided for the deployment, construction, maintenance, or operation of a customer-side technology.

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 “Ratepayer Fairness  
5 Act of 2015”.

1 **SEC. 2. CROSS-SUBSIDIZATION OF CUSTOMER-SIDE TECH-**  
 2 **NOLOGY.**

3 (a) CONSIDERATION OF IMPACT FROM CROSS-SUB-  
 4 SIDIZATION OF CUSTOMER-SIDE TECHNOLOGY.—Section  
 5 111(d) of the Public Utility Regulatory Policies Act of  
 6 1978 (16 U.S.C. 2621(d)) is amended by adding at the  
 7 end the following:

8 “(20) CONSIDERATION OF IMPACT FROM  
 9 CROSS-SUBSIDIZATION OF CUSTOMER-SIDE TECH-  
 10 NOLOGY.—

11 “(A) DEFINITION OF CUSTOMER-SIDE  
 12 TECHNOLOGY.—In this paragraph, the term  
 13 ‘customer-side technology’ means a device con-  
 14 nected to the electricity distribution system—

15 “(i) at, or on the customer side of, the  
 16 meter; or

17 “(ii) that, if owned or operated by, or  
 18 on behalf of, an electric utility, would oth-  
 19 erwise be at, or on the customer side of,  
 20 the meter.

21 “(B) CONSIDERATION.—Each State regu-  
 22 latory authority (with respect to each electric  
 23 utility for which it has ratemaking authority)  
 24 and each nonregulated electric utility shall con-  
 25 sider, to the extent a State regulatory authority  
 26 or nonregulated electric utility allows rates

1 charged by any electric utility to include any  
2 cost, fee, or charge that directly or indirectly  
3 subsidizes the deployment, construction, main-  
4 tenance, or operation of customer-side tech-  
5 nology, whether subsidizing the deployment,  
6 construction, maintenance, or operation of a  
7 customer-side technology would—

8 “(i) result in benefits predominately  
9 enjoyed by only the users of the customer-  
10 side technology;

11 “(ii) shift costs of a customer-side  
12 technology to electricity consumers that do  
13 not use the customer-side technology, par-  
14 ticularly in cases in which disparate eco-  
15 nomic or resource conditions exist among  
16 the electricity consumers cross-subsidizing  
17 the customer-side technology;

18 “(iii) negatively affect resource utiliza-  
19 tion, fuel diversity, grid reliability, or grid  
20 security;

21 “(iv) provide any unfair competitive  
22 advantage to market the customer-side  
23 technology, including an analysis of wheth-  
24 er the State regulatory authority or other  
25 State authority has uncovered any fraudu-

1           lent customer-side technology marketing  
2           practices within the State; and

3                   “(v) be necessary to fulfill an obliga-  
4           tion to serve electric consumers.

5                   “(C) PUBLIC NOTICE.—At least 90 days  
6           before the date on which a State regulatory au-  
7           thority or nonregulated electric utility holds a  
8           proceeding that would consider the cross-sub-  
9           sidization of a customer-side technology, the  
10          State regulatory authority or nonregulated elec-  
11          tric utility shall make available to the public the  
12          results of the evaluation conducted under sub-  
13          paragraph (B).”.

14          (b) COMPLIANCE.—

15                  (1) TIME LIMITATIONS.—Section 112(b) of the  
16          Public Utility Regulatory Policies Act of 1978 (16  
17          U.S.C. 2622(b)) is amended by adding at the end  
18          the following:

19                          “(7)(A) Not later than 1 year after the date of  
20          enactment of this paragraph, each State regulatory  
21          authority (with respect to each electric utility for  
22          which it has ratemaking authority), and each non-  
23          regulated electric utility shall, with respect to the  
24          standard established by paragraph (20) of section  
25          111(d)—

1           “(i) commence the consideration referred  
2           to in section 111; or

3           “(ii) set a hearing date for the consider-  
4           ation.

5           “(B) Not later than 2 years after the date of  
6           enactment of this paragraph, each State regulatory  
7           authority (with respect to each electric utility for  
8           which it has ratemaking authority), and each non-  
9           regulated electric utility, shall—

10           “(i) complete the consideration required  
11           under subparagraph (A); and

12           “(ii) make the determination referred to in  
13           section 111 with respect to the standard estab-  
14           lished by paragraph (20) of section 111(d).”.

15           (2) FAILURE TO COMPLY.—Section 112(c) of  
16           the Public Utility Regulatory Policies Act of 1978  
17           (16 U.S.C. 2622(c)) is amended by adding at the  
18           end the following: “In the case of the standard es-  
19           tablished by paragraph (20) of section 111(d), the  
20           reference contained in this subsection to the date of  
21           enactment of this Act shall be deemed to be a ref-  
22           erence to the date of enactment of that paragraph.”.

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