

116TH CONGRESS
1ST SESSION

S. 2556

To amend the Federal Power Act to provide energy cybersecurity investment incentives, to establish a grant and technical assistance program for cybersecurity investments, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2019

Ms. MURKOWSKI (for herself, Mr. MANCHIN, Mr. RISCH, Ms. CANTWELL, and Mr. KING) 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 provide energy cybersecurity investment incentives, to establish a grant and technical assistance program for cybersecurity investments, 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 “Protecting Resources
5 On The Electric grid with Cybersecurity Technology Act
6 of 2019” or the “PROTECT Act of 2019”.

1 **SEC. 2. INCENTIVES FOR ADVANCED CYBERSECURITY**
 2 **TECHNOLOGY INVESTMENT.**

3 Part II of the Federal Power Act is amended by in-
 4 serting after section 219 (16 U.S.C. 824s) the following:

5 **“SEC. 219A. INCENTIVES FOR CYBERSECURITY INVEST-**
 6 **MENTS.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) ADVANCED CYBERSECURITY TECH-
 9 NOLOGY.—The term ‘advanced cybersecurity tech-
 10 nology’ means any technology, operational capability,
 11 or service, including computer hardware, software,
 12 or a related asset, that enhances the security posture
 13 of public utilities through improvements in the abil-
 14 ity to protect against, detect, respond to, or recover
 15 from a cybersecurity threat (as defined in section
 16 102 of the Cybersecurity Act of 2015 (6 U.S.C.
 17 1501)).

18 “(2) ADVANCED CYBERSECURITY TECHNOLOGY
 19 INFORMATION.—The term ‘advanced cybersecurity
 20 technology information’ means information relating
 21 to advanced cybersecurity technology or proposed
 22 advanced cybersecurity technology that is generated
 23 by or provided to the Commission or another Fed-
 24 eral agency.

25 “(b) STUDY.—Not later than 180 days after the date
 26 of enactment of this section, the Commission, in consulta-

1 tion with the Secretary of Energy, the North American
2 Electric Reliability Corporation, the Electricity Subsector
3 Coordinating Council, and the National Association of
4 Regulatory Utility Commissioners, shall conduct a study
5 to identify incentive-based, including performance-based,
6 rate treatments for the transmission of electric energy
7 subject to the jurisdiction of the Commission that could
8 be used to encourage—

9 “(1) investment by public utilities in advanced
10 cybersecurity technology; and

11 “(2) participation by public utilities in cyberse-
12 curity threat information sharing programs.

13 “(c) INCENTIVE-BASED RATE TREATMENT.—Not
14 later than 1 year after the completion of the study under
15 subsection (b), the Commission shall establish, by rule, in-
16 centive-based, including performance-based, rate treat-
17 ments for the transmission of electric energy in interstate
18 commerce by public utilities for the purpose of benefitting
19 consumers by encouraging—

20 “(1) investments by public utilities in advanced
21 cybersecurity technology; and

22 “(2) participation by public utilities in cyberse-
23 curity threat information sharing programs.

24 “(d) FACTORS FOR CONSIDERATION.—In issuing the
25 rule pursuant to this section, the Commission may provide

1 additional incentives beyond those identified in subsection
2 (c) in any case in which the Commission determines that
3 an investment in advanced cybersecurity technology or in-
4 formation sharing program costs will reduce cybersecurity
5 risks to—

6 “(1) defense critical electric infrastructure (as
7 defined in section 215A(a)) and other facilities sub-
8 ject to the jurisdiction of the Commission that are
9 critical to public safety, national defense, or home-
10 land security, as determined by the Commission in
11 consultation with—

12 “(A) the Secretary of Energy; and

13 “(B) appropriate Federal agencies; and

14 “(2) facilities of small- or medium-sized public
15 utilities with limited cybersecurity resources, as de-
16 termined by the Commission.

17 “(e) RATEPAYER PROTECTION.—Any rate approved
18 under the rule issued pursuant to this section, including
19 any revisions to that rule, shall be subject to the require-
20 ments of sections 205 and 206 that all rates, charges,
21 terms, and conditions—

22 “(1) shall be just and reasonable; and

23 “(2) shall not be unduly discriminatory or pref-
24 erential.

1 “(f) SINGLE-ISSUE RATE FILINGS.—The Commis-
 2 sion shall permit public utilities to apply for incentive-
 3 based rate treatment under the rule issued under this sec-
 4 tion on a single-issue basis by submitting to the Commis-
 5 sion a tariff schedule under section 205 that permits re-
 6 covery of costs and incentives over the depreciable life of
 7 the applicable assets, without regard to changes in receipts
 8 or other costs of the public utility.

9 “(g) PROTECTION OF INFORMATION.—Advanced cy-
 10 bersecurity technology information that is provided to,
 11 generated by, or collected by the Federal Government
 12 under subsection (b), (c), or (f) shall be considered to be
 13 critical electric infrastructure information under section
 14 215A.”.

15 **SEC. 3. RURAL AND MUNICIPAL UTILITY ADVANCED CY-**
 16 **BERSECURITY GRANT AND TECHNICAL AS-**
 17 **SISTANCE PROGRAM.**

18 (a) DEFINITIONS.—In this section:

19 (1) **ADVANCED CYBERSECURITY TECH-**
 20 **NOLOGY.**—The term “advanced cybersecurity tech-
 21 nology” means any technology, operational capa-
 22 bility, or service, including computer hardware, soft-
 23 ware, or a related asset, that enhances the security
 24 posture of electric utilities through improvements in
 25 the ability to protect against, detect, respond to, or

1 recover from a cybersecurity threat (as defined in
2 section 102 of the Cybersecurity Act of 2015 (6
3 U.S.C. 1501)).

4 (2) ELIGIBLE ENTITY.—The term “eligible enti-
5 ty” means—

6 (A) a rural electric cooperative;

7 (B) a utility owned by a political subdivi-
8 sion of a State, such as a municipally owned
9 electric utility;

10 (C) a utility owned by any agency, author-
11 ity, corporation, or instrumentality of one or
12 more political subdivisions of a State; and

13 (D) a not-for-profit entity that is in a part-
14 nership with not fewer than 6 entities described
15 in subparagraph (A), (B), or (C).

16 (3) PROGRAM.—The term “Program” means
17 the Rural and Municipal Utility Advanced Cyberse-
18 curity Grant and Technical Assistance Program es-
19 tablished under subsection (b).

20 (4) SECRETARY.—The term “Secretary” means
21 the Secretary of Energy.

22 (b) ESTABLISHMENT.—Not later than 180 days after
23 the date of enactment of this Act, the Secretary, in con-
24 sultation with the Federal Energy Regulatory Commis-
25 sion, the North American Electric Reliability Corporation,

1 and the Electricity Subsector Coordinating Council, shall
2 establish a program, to be known as the “Rural and Mu-
3 nicipal Utility Advanced Cybersecurity Grant and Tech-
4 nical Assistance Program”, to provide grants and tech-
5 nical assistance to, and enter into cooperative agreements
6 with, eligible entities to protect against, detect, respond
7 to, and recover from cybersecurity threats.

8 (c) OBJECTIVES.—The objectives of the Program
9 shall be—

10 (1) to deploy advanced cybersecurity tech-
11 nologies for electric utility systems; and

12 (2) to increase the participation of eligible enti-
13 ties in cybersecurity threat information sharing pro-
14 grams.

15 (d) AWARDS.—

16 (1) IN GENERAL.—The Secretary—

17 (A) shall award grants and provide tech-
18 nical assistance under the Program to eligible
19 entities on a competitive basis;

20 (B) shall develop criteria and a formula for
21 awarding grants and providing technical assist-
22 ance under the Program;

23 (C) may enter into cooperative agreements
24 with eligible entities that can facilitate the ob-
25 jectives described in subsection (c); and

1 (D) shall establish a process to ensure that
2 all eligible entities are informed about and can
3 become aware of opportunities to receive grants
4 or technical assistance under the Program.

5 (2) PRIORITY FOR GRANTS AND TECHNICAL AS-
6 SISTANCE.—In awarding grants and providing tech-
7 nical assistance under the Program, the Secretary
8 shall give priority to an eligible entity that, as deter-
9 mined by the Secretary—

10 (A) has limited cybersecurity resources;

11 (B) owns assets critical to the reliability of
12 the bulk power system; or

13 (C) owns defense critical electric infra-
14 structure (as defined in section 215A(a) of the
15 Federal Power Act (16 U.S.C. 824o–1(a))).

16 (e) PROTECTION OF INFORMATION.—Information
17 provided to, or collected by, the Federal Government
18 under this section—

19 (1) shall be exempt from disclosure under sec-
20 tion 552(b)(3) of title 5, United States Code; and

21 (2) shall not be made available by any Federal
22 agency, State, political subdivision of a State, or
23 Tribal authority under any applicable law requiring
24 public disclosure of information or records.

1 (f) FUNDING.—There is authorized to be appro-
2 priated to carry out this section \$50,000,000 for each of
3 fiscal years 2020 through 2024, to remain available until
4 expended.

○