119TH CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
119–306

STATE PLANNING FOR RELIABILITY AND AFFORDABILITY ACT

SEPTEMBER 19, 2025.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GUTHRIE, from the Committee on Energy and Commerce, submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany H.R. 3628]

The Committee on Energy and Commerce, to whom was referred the bill (H.R. 3628) to amend the Public Utility Regulatory Policies Act of 1978 to add a standard related to State consideration of reliable generation, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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59–006

PURPOSE AND SUMMARY

H.R. 3628, the "State Planning for Reliability and Affordability Act", was introduced by Representative Evans on May 29, 2025, and referred to the Committee on Energy and Commerce on May 29, 2025. H.R. 3628 amends section 111(d) of PURPA to require each state regulatory authority to consider implementing requirements for utilities to analyze their reliable generation portfolio as part of their integrated resource plans over a 10-year planning period.

BACKGROUND AND NEED FOR LEGISLATION

After decades of modest growth in electricity demand, the bulk-power system of the United States is undergoing its most transformative period since WWII. Increasing electricity demands, driven by the rise of artificial intelligence and reshoring of domestic manufacturing facilities, are coinciding with an alarming rate of premature retirements of baseload power and insufficient replacement of generating resources. Data centers alone could consume upwards of 132 GW by 2028.[1] The North American Electric Reliability Corporation (NERC) projects peak demand to grow by 151 GW by 2034.[2] At the same time, NERC reports that as much as 115 GW of thermal generation has announced to retire within the same period.[3] NERC has stated that "[e]nvironmental regulations and energy policies that are overly rigid and lack provisions for electric grid reliability have the potential to influence generators to seek deactivation despite a projected resource adequacy or operating reliability risk; this can potentially jeopardize[e] the orderly transition of the resource mix."[4] A recent report from the Department of Energy finds that the level of projected demands from next generation industries coupled with the accelerated rate of retirements of baseload generating units could increase the risk of power outages by 100 times by 2030.[5]

During the 119th Congress, the Energy Subcommittee of Energy and Commerce has held several hearings to better understand the ongoing reliability crisis facing our nation. Through expert witness testimony from grid operators, engineers, and experts in the energy industry, the Committee finds that states have played an outsized role in driving pre-mature retirements of baseload generating units. In many cases, it is actions taken to fulfill clean energy mandates that are undermining reliability and raising costs on ratepayers.

There are currently 29 states that have clean energy standards, renewable portfolio standards, or other related measures that require utilities and power producers to have increasing shares of their generation come from preferred clean energy sources or other-

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[1] Arman Shehabi et al., *2024 United States Data Center Energy Usage Report*, LAWRENCE BERKELY NATIONAL LABORATORY (Dec. 20, 2024), [https://escholarship.org/uc/item/32d6m0d1].

[2] North American Reliability Corp. (NERC), *2024 Long-Term Reliability Assessment* (Dec. 2024, updated Jul. 15, 2025), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_Long%20Term%20Reliability%20Assessment_2024.pdf.

[3] *Id*.

[4] NERC, *2023 Long-Term Reliability Assessment* (Dec. 2023), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_LTRA_2023.pdf.

[5] U.S. DEP'T. OF ENERGY, *Evaluating the Reliability and Security of the United States Electric Grid* (Resource Adequacy Report), at 1 (Jul. 2025), https://www.energy.gov/sites/default/files/2025-07/DOE%20Final%20EO%20Report%20%28FINAL%20JULY%207%290.pdf.

wise designate specified dates to meet emission reduction goals. Accordingly, of the ten states with the highest electricity prices, all but two have the most aggressive forms of clean energy standards.[6] Meanwhile, of the eighteen states with the most affordable electricity rates, only one has a renewable portfolio standard.[7] The one state referenced in the most affordable electricity rates with a renewable portfolio standard is Washington, home to the largest forms of reliable, baseload hydropower facilities in the country.

Higher reliance on intermittent energy resources could inherently drive up costs on ratepayers because their intermittent nature requires back up power and they have higher land usage. Intermittent energy resources also have locational constraints necessitating additional transmission infrastructure, and require rate-based cost-recovery of stranded assets that have high capital costs. Contrary to claims of the affordability of intermittent energy resources, grid operators such as ISO–NE, have found that the profitability of such resources is reliant on state policies and additional revenue streams outside of those found in wholesale markets.[8] In 2024, it had been estimated that renewable energy would receive $1.2 trillion in subsidies over the following ten years.[9] The true costs of intermittent resources are socialized amongst the broader system to install necessary infrastructure.

Concerningly, some of the states that are implementing the most aggressive forms of clean energy standards and driving out baseload generating units are the same states that have the highest amounts of electricity imports of firm generation from neighboring states that continue to maintain sufficient baseload and dispatchable generating units.[10] As load growth from next generation industries are tightening markets across the country, leading utilities in states such as Colorado have found that growing imports are an unsustainable strategy for long-term reliability.[11]

Many states require utilities to develop Integrated Resource Plans (IRP) that detail methodical plans over a defined time period for electricity procurement, future investments into energy infrastructure, and provide a road map to cost-effective management of their system. The idea of an IRP process was borne out of the energy crises of the 1970's, cost over-runs of generating facilities, and the passage of the Public Utilities Regulatory Policies Act (PURPA) of 1978. PURPA sought to promote energy conservation and promote competition in the power sector. Currently, more than 35 states require utilities to file IRP's with state officials and vary in terms of their requirements, planning time horizon, and frequency of filings.[12]

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[6] Mario Loyola et al., *Why Electricity Prices are Soaring in Blue States*, HERITAGE FOUND. (Oct. 23, 2024), https://www.heritage.org/sites/default/files/2024-10/BG3867.pdf.

[7] *Id*.

[8] ISO-New England Inc. Internal Market Monitor, *2024 Annual Markets Report*, ISO-NEW ENGLAND (May 23, 2025), https://www.iso-ne.com/static-assets/documents/100023/2024-annual-markets-report.pdf.

[9] Mario Loyola et al., *supra* note 6.

[10] U.S. ENERGY INFO. ADMIN. (EIA), *Virginia was the top net electricity recipient of any state in 2023*, Energy Information Administration: In Brief Analysis (Dec. 20, 2024), https://www.eia.gov/todayinenergy/detail.php?id=64104.

[11] Letter from Xcel Energy to Public Service Company of Colorado (Feb. 11, 2025), https://i2i.org/wp-content/uploads/PSCO-Letter-on-Resource-Adequacy.pdf.

[12] Alan Cooke, *Integrated Resource Planning in the U.S. Overview*, PACIFIC NORTHWEST NATIONAL LABORATORY, U.S. DEP'T. OF ENERGY (Mar. 1, 2021) https://eta-publications.lbl.gov/sites/default/files/sc_commission_day_1_irps_in_us_review_of_requirements_final.pdf.

At its core, IRP's were initially designed as a reliability and resource adequacy centric tool to secure long-term stability of the power sector and affordable costs on ratepayers. However, the emergence of state clean energy standards and aggressive environmental regulatory approaches have shifted IRP priorities away from its core mission. In the previous administration, federal agencies, namely the Environmental Protection Agency, encouraged these sentiments, even though the agencies lack the requisite expertise when it comes to the bulk power system. As a recent example, in 2022, the EPA issued a comprehensive guide with a roadmap for states to commandeer the focus of IRP's to prioritize climate change mitigation, public health considerations, and societal equity and inclusion goals. While seemingly laudable, usurping foundational needs of IRP's disregards the views of those charged with overseeing reliability of the bulk power system and fulfills the wishes of environmental groups, all of which is done at the expense of the ratepayer. Absent from this roadmap is the consideration of brownouts, blackouts, and rising electricity prices stemming from insufficient baseload and dispatchable generating units, or how the failure of critical infrastructure could undermine the general health and wellness of the American population.

Given the state of our electric reliability crisis, now more than ever it is imperative for states to take responsibility for the impact of increasing reliance on intermittent resources and efforts to drive out reliable generating resources without sufficient replacements. As a part of the authorities provided under PURPA, section 111(d) establishes an opportunity for Congress to encourage state public utility commission to consider certain policies.[13] As part of this process, state commissions, and in some cases non-regulated utilities, are required to give consideration to provisions passed by Congress in an open meeting format. This provision is not a mandate for states, who generally control decisions related to resource adequacy within their jurisdiction.

The State Planning for Reliability and Affordability Act seeks to encourage states, under 111(d), to take larger consideration of the needs for reliable generating resources, which are defined as having critical attributes to essential reliability services and specifically account for known and commercially available types of natural gas, coal, nuclear, and hydropower facilities and contractual agreements, both firm and non firm, to ensure sufficient generation during times of need.

Under current law, section 111(d) includes requirements for states to consider implementing IRP's.[14] However, given the growing emergence of state and federal actions that undermine foundational needs for IRP's, the Committee finds that the current statutory provisions are insufficient to address the growing reliability crisis and consideration for reliable generation must be encouraged. In some cases, recent resource plans have even included undefined reliable generation technologies or otherwise account for unidentified resource types, acknowledging uncertainty of future clean dispatchable options.[15] In developing IRP's that include spe-

[13] 16 U.S.C. § 2621(d).
[14] 16 U.S.C. § 2621(d)(7), (16).
[15] ELECTRIC POLICY RESEARCH INSTITUTE, *State of Electric Company Resource Planning* (Dec. 21, 2023), https://www.epri.com/research/products/3002026243.

cific considerations of maintaining sufficient reliable generation, H.R. 3628 would encourage long-term planning over a 10-year period utilizing realistic assumptions of reliable generation to incentivize stronger considerations of reliability and affordability of the power sector.

COMMITTEE ACTION

On April 30, 2025, the Subcommittee on Energy held a legislative hearing on H.R. 3628. The Subcommittee received testimony from:

- Mike Goff, Acting Undersecretary of Energy, U.S. Department of Energy;
- David L. Morenoff, Acting General Counsel, Federal Energy Regulatory Commission;
- Terry Turpin, Director, Office of Energy Projects, Federal Energy Regulatory Commission;
- Jim Matheson, Chief Executive Officer, National Rural Electric Cooperative Association;
- Amy Andryszak, President and Chief Executive Officer, Interstate Natural Gas Association of America;
- Todd A. Snitchler, President and Chief Executive Officer, Electric Power Supply Association and;
- Kim Smaczniak, Partner, Roselle LLP.

On June 5, 2025, the Subcommittee on Energy met in open markup session and forwarded H.R. 3628, without amendment, to the full Committee by a voice vote. On June 25, 2025, the full Committee on Energy and Commerce met in open markup session and ordered H.R. 3628, without amendment, favorably reported to the House by a record vote of 25 yeas and 23 nays.

COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Committee to list the record votes on the motion to report legislation and amendments thereto. The following reflects the record votes taken during the Committee consideration:

As of 06:24:2025

COMMITTEE ON ENERGY AND COMMERCE
119TH CONGRESS
ROLL CALL VOTE # 11

BILL: H.R. 3628, State Planning for Reliability and Affordability Act

AMENDMENT: Final Passage

DISPOSITION: **Agreed to,** by a roll call vote of 25 yeas and 23 nays.

REPRESENTATIVE	YEAS	NAYS	PRESENT	REPRESENTATIVE	YEAS	NAYS	PRESENT
Mr. Guthrie	X			Mr. Pallone		X	
Mr. Latta	X			Ms. DeGette		X	
Mr. Griffith	X			Ms. Schakowsky		X	
Mr. Bilirakis	X			Ms. Matsui		X	
Mr. Hudson	X			Ms. Castor		X	
Mr. Carter (GA)	X			Mr. Tonko		X	
Mr. Palmer				Ms. Clarke		X	
Mr. Dunn	X			Mr. Ruiz		X	
Mr. Crenshaw	X			Mr. Peters		X	
Mr. Joyce	X			Mrs. Dingell		X	
Mr. Weber	X			Mr. Veasey		X	
Mr. Allen				Ms. Kelly		X	
Mr. Balderson	X			Ms. Barragán		X	
Mr. Fulcher	X			Mr. Soto		X	
Mr. Pfluger				Ms. Schrier		X	
Mrs. Harshbarger	X			Ms. Trahan		X	
Mrs. Miller-Meeks	X			Ms. Fletcher		X	
Mr. Cammack				Ms. Ocasio-Cortez			
Mr. Obernolte	X			Mr. Auchincloss		X	
Mr. James	X			Mr. Carter (LA)		X	
Mr. Bentz	X			Mr. Menendez		X	
Mrs. Houchin	X			Mr. Mullin		X	
Mr. Fry	X			Mr. Landsman		X	
Ms. Lee				Ms. McClellan		X	
Mr. Langworthy	X						
Mr. Kean	X						
Mr. Rulli	X						
Mr. Evans	X						
Mr. Goldman	X						
Mrs. Fedorchak	X						

06/25/2025

OVERSIGHT FINDINGS AND RECOMMENDATIONS

Pursuant to clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII, the Committee held hearings and made findings that are reflected in this report.

NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES

Pursuant to clause 3(c)(2) of rule XIII, the Committee finds that H.R. 3628 would result in no new or increased budget authority, entitlement authority, or tax expenditures or revenues.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

Pursuant to clause 3(c)(3) of rule XIII, at the time this report was filed, the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not available.

FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act.

STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the general performance goal or objective of this legislation is to encourage states, under PURPA 111(d), to consider implementing requirements for Integrated Resource Plans to include sufficient reliable generation.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII, no provision of H.R. 3628 is known to be duplicative of another Federal program, including any program that was included in a report to Congress pursuant to section 21 of Public Law 111–139 or the most recent Catalog of Federal Domestic Assistance.

RELATED COMMITTEE AND SUBCOMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following related hearing was used to develop or consider H.R. 3628:

On February 5, 2025, the Subcommittee on Energy held a hearing on H.R. 3628, titled "Powering America's Future: Unleashing American Energy." The Subcommittee received testimony from:

- Amanda Eversole, Executive Vice President and Chief Advocacy Officer, American Petroleum Institute;
- Brigham McCown, Senior Fellow and Director, Initiative on American Energy Security, The Hudson Institute;
- Gary Arnold, Business Manager, Denver Pipefitters Local 208 and;
- Tyler O'Connor, Partner, Crowell & Moring LLP.

On March 5, 2025, the Subcommittee on Energy held a hearing on H.R. 3628, titled "Scaling for Growth: Meeting the Demand for Reliable, Affordable Electricity." The Subcommittee received testimony from:

- Todd Brickhouse, CEO and General Manager, Basin Electric Power Cooperative;
- Asim Haque, Senior Vice President for Governmental and Member Services, PJM;
- Noel W. Black, Senior VP of Regulatory Affairs, Southern Company and;
- Tyler H. Norris, James B. Duke Fellow, Duke University.

On March 25, 2025, the Subcommittee on Energy held a hearing on H.R. 3628, titled "Keeping the Lights On: Examining the State of Regional Grid Reliability." The Subcommittee received testimony from:

- Gordon van Welie, President and Chief Executive Officer, ISO New England;
- Richard J. Dewey, President and Chief Executive Officer, New York Independent System Operator;
- Manu Asthana, President and Chief Executive Officer, PJM Interconnection LLC;
- Jennifer Curran, Senior Vice President for Planning and Operations, Midcontinent ISO;
- Lanny Nickell, Chief Operating Officer, Southwest Power Pool;
- Elliot Mainzer, President and Chief Executive Officer, California Independent System Operator and;
- Pablo Vegas, President and Chief Executive Officer, Electric Reliability Council of Texas, Inc.

On April 9, 2025, the Committee on Energy and Commerce held a hearing on H.R. 3628, titled "Converting Energy into Intelligence: The Future of AI Technology, Human Discovery, and American Global Competitiveness." The Committee received testimony from:

- Eric Schmidt, Chair, Special Competitive Studies Project;
- Manish Bhatia, Executive Vice President of Global Operations, Micron Technology;
- Alexander Wang, Founder and Chief Executive Officer, Scale AI, and;
- David Turk, Distinguished Visiting Fellow, Center on Global Energy Policy, Columbia University.

On April 30, 2025, the Subcommittee on Energy held a legislative hearing on H.R. 3628, titled "Assuring Abundant, Reliable American Energy to Power Innovation." The Subcommittee received testimony from:

- Mike Goff, Acting Undersecretary of Energy, U.S. Department of Energy;
- David L. Morenoff, Acting General Counsel, Federal Energy Regulatory Commission;
- Terry Turpin, Director, Office of Energy Projects, Federal Energy Regulatory Commission;
- Jim Matheson, Chief Executive Officer, National Rural Electric Cooperative Association;
- Amy Andryszak, President and Chief Executive Officer, Interstate Natural Gas Association of America;
- Todd A. Snitchler, President and Chief Executive Officer, Electric Power Supply Association and;
- Kim Smaczniak, Partner, Roselle LLP.

COMMITTEE COST ESTIMATE

Pursuant to clause 3(d)(1) of rule XIII, the Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974. At the time this report was filed, the estimate was not available.

EARMARK, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

Pursuant to clause 9(e), 9(f), and 9(g) of rule XXI, the Committee finds that H.R. 3628 contains no earmarks, limited tax benefits, or limited tariff benefits.

ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

Section 1. Short title

Section 1 provides that the Act may be cited as the "State Planning for Reliability and Affordability Act".

Section 2. State consideration of reliable generation

Section 2 amends section 111(d) of PURPA to include a provision for states to consider requiring utilities include sufficient reliable generation over a 10-year planning period in integrated resource plans. This section also includes conforming amendments for how states must consider implementing requirements of this section.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

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TITLE I—RETAIL REGULATORY POLICIES FOR ELECTRIC UTILITIES

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Subtitle B—Standards For Electric Utilities

SEC. 111. CONSIDERATION AND DETERMINATION RESPECTING CERTAIN RATEMAKING STANDARDS.

(a) CONSIDERATION AND DETERMINATION.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard established by subsection (d) and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this title. For purposes of such consideration and determination in accordance with subsections (b) and (c), and for purposes of any review of such consideration and determination in any court in accordance with section 123, the purposes of this title supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to implement any such standard, pursuant to its authority under otherwise applicable State law.

(b) PROCEDURAL REQUIREMENTS FOR CONSIDERATION AND DETERMINATION.—(1) The consideration referred to in subsection (a) shall be made after public notice and hearing. The determination referred to in subsection (a) shall be—

(A) in writing,

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 112(a), and in sections 121 and 122, the procedures for the consideration and determination referred to in subsection (a) shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) IMPLEMENTATION.—(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

(A) implement any such standard determined under subsection (a) to be appropriate to carry out the purposes of this title, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) which is determined under subsection (a) to be appropriate to carry out the purposes of this title, such authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public.

(3) If a State regulatory authority implements a standard established by subsection (d)(7) or (8), such authority shall—

(A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy con-

servation, energy efficiency or other demand side management measures, and

(B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.

(d) ESTABLISHMENT.—The following Federal standards are hereby established:

(1) COST OF SERVICE.—Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the cost of providing electric service to such class, as determined under section 115(a).

(2) DECLINING BLOCK RATES.—The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

(3) TIME-OF-DAY RATES.—The rates charged by any electric utility for providing electric service to such class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 115(b).

(4) SEASONAL RATES.—The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to each class of consumers at different seasons of the year to the extent that such costs vary seasonally for such utility.

(5) INTERRUPTIBLE RATES.—Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member.

(6) LOAD MANAGEMENT TECHNIQUES.—Each electric utility shall offer to its electric consumers such load management techniques as the State regulatory authority (or the nonregulated electric utility) has determined will—

(A) be practicable and cost-effective, as determined under section 115(c),

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility.

(7) INTEGRATED RESOURCE PLANNING.—Each electric utility shall employ integrated resource planning. All plans or filings before a State regulatory authority to meet the requirements of this paragraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

(8) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generation, transmission, and distribution equipment. Such energy conservation, energy efficiency resources and other demand side management measures shall be appropriately monitored and evaluated.

(9) ENERGY EFFICIENCY INVESTMENTS IN POWER GENERATION AND SUPPLY.—The rates charged by any electric utility shall be such that the utility is encouraged to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation, transmission and distribution. In considering regulatory changes to achieve the objectives of this paragraph, State regulatory authorities and nonregulated electric utilities shall consider the disincentives caused by existing ratemaking policies, and practices, and consider incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution equipment.

(10) CONSIDERATION OF THE EFFECTS OF WHOLESALE POWER PURCHASES ON UTILITY COST OF CAPITAL; EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND ASSURANCE OF ADEQUATE FUEL SUPPLIES.—(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall perform a general evaluation of:

(i) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities;

(ii) whether the use by exempt wholesale generators (as defined in section 32 of the Public Utility Holding Company Act of 1935) of capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

(iii) whether to implement procedures for the advance approval or disapproval of the purchase of a particular long-term wholesale power supply; and

(iv) whether to require as a condition for the approval of the purchase of power that there be reasonable assurances of fuel supply adequacy.

(B) For purposes of implementing the provisions of this paragraph, any reference contained in this section to the date of en-

actment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

(D) Notwithstanding section 124 and paragraphs (1) and (2) of section 112(a), each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to the enactment of this paragraph.

(E) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.

(11) NET METERING.—Each electric utility shall make available upon request net metering service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term "net metering service" means service to an electric consumer under which electric energy generated by that electric consumer from an eligible on-site generating facility and delivered to the local distribution facilities may be used to offset electric energy provided by the electric utility to the electric consumer during the applicable billing period.

(12) FUEL SOURCES.—Each electric utility shall develop a plan to minimize dependence on 1 fuel source and to ensure that the electric energy it sells to consumers is generated using a diverse range of fuels and technologies, including renewable technologies.

(13) FOSSIL FUEL GENERATION EFFICIENCY.—Each electric utility shall develop and implement a 10-year plan to increase the efficiency of its fossil fuel generation.

(14) TIME-BASED METERING AND COMMUNICATIONS.—(A) Not later than 18 months after the date of enactment of this paragraph, each electric utility shall offer each of its customer classes, and provide individual customers upon customer request, a time-based rate schedule under which the rate charged by the electric utility varies during different time periods and reflects the variance, if any, in the utility's costs of generating and purchasing electricity at the wholesale level. The time-based rate schedule shall enable the electric consumer to manage energy use and cost through advanced metering and communications technology.

(B) The types of time-based rate schedules that may be offered under the schedule referred to in subparagraph (A) include, among others—

(i) time-of-use pricing whereby electricity prices are set for a specific time period on an advance or forward basis, typically not changing more often than twice a year, based

on the utility's cost of generating and/or purchasing such electricity at the wholesale level for the benefit of the consumer. Prices paid for energy consumed during these periods shall be pre-established and known to consumers in advance of such consumption, allowing them to vary their demand and usage in response to such prices and manage their energy costs by shifting usage to a lower cost period or reducing their consumption overall;

(ii) critical peak pricing whereby time-of-use prices are in effect except for certain peak days, when prices may reflect the costs of generating and/or purchasing electricity at the wholesale level and when consumers may receive additional discounts for reducing peak period energy consumption;

(iii) real-time pricing whereby electricity prices are set for a specific time period on an advanced or forward basis, reflecting the utility's cost of generating and/or purchasing electricity at the wholesale level, and may change as often as hourly; and

(iv) credits for consumers with large loads who enter into pre-established peak load reduction agreements that reduce a utility's planned capacity obligations.

(C) Each electric utility subject to subparagraph (A) shall provide each customer requesting a time-based rate with a time-based meter capable of enabling the utility and customer to offer and receive such rate, respectively.

(D) For purposes of implementing this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

(E) In a State that permits third-party marketers to sell electric energy to retail electric consumers, such consumers shall be entitled to receive the same time-based metering and communications device and service as a retail electric consumer of the electric utility.

(F) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall, not later than 18 months after the date of enactment of this paragraph conduct an investigation in accordance with section 115(i) and issue a decision whether it is appropriate to implement the standards set out in subparagraphs (A) and (C).

(15) INTERCONNECTION.—Each electric utility shall make available, upon request, interconnection service to any electric consumer that the electric utility serves. For purposes of this paragraph, the term "interconnection service" means service to an electric consumer under which an on-site generating facility on the consumer's premises shall be connected to the local distribution facilities. Interconnection services shall be offered based upon the standards developed by the Institute of Electrical and Electronics Engineers: IEEE Standard 1547 for Interconnecting Distributed Resources with Electric Power Systems, as they may be amended from time to time. In addition, agreements and procedures shall be established whereby the services are offered shall promote current best practices of interconnection for distributed generation, including but not

limited to practices stipulated in model codes adopted by associations of state regulatory agencies. All such agreements and procedures shall be just and reasonable, and not unduly discriminatory or preferential.

(16) INTEGRATED RESOURCE PLANNING.—Each electric utility shall—

(A) integrate energy efficiency resources into utility, State, and regional plans; and

(B) adopt policies establishing cost-effective energy efficiency as a priority resource.

(17) RATE DESIGN MODIFICATIONS TO PROMOTE ENERGY EFFICIENCY INVESTMENTS.—

(A) IN GENERAL.—The rates allowed to be charged by any electric utility shall—

(i) align utility incentives with the delivery of cost-effective energy efficiency; and

(ii) promote energy efficiency investments.

(B) POLICY OPTIONS.—In complying with subparagraph (A), each State regulatory authority and each nonregulated utility shall consider—

(i) removing the throughput incentive and other regulatory and management disincentives to energy efficiency;

(ii) providing utility incentives for the successful management of energy efficiency programs;

(iii) including the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives;

(iv) adopting rate designs that encourage energy efficiency for each customer class;

(v) allowing timely recovery of energy efficiency-related costs; and

(vi) offering home energy audits, offering demand response programs, publicizing the financial and environmental benefits associated with making home energy efficiency improvements, and educating homeowners about all existing Federal and State incentives, including the availability of low-cost loans, that make energy efficiency improvements more affordable.

(18) CONSIDERATION OF SMART GRID INVESTMENTS.—

(A) IN GENERAL.—Each State shall consider requiring that, prior to undertaking investments in nonadvanced grid technologies, an electric utility of the State demonstrate to the State that the electric utility considered an investment in a qualified smart grid system based on appropriate factors, including—

(i) total costs;

(ii) cost-effectiveness;

(iii) improved reliability;

(iv) security;

(v) system performance; and

(vi) societal benefit.

(B) RATE RECOVERY.—Each State shall consider authorizing each electric utility of the State to recover from rate-

payers any capital, operating expenditure, or other costs of the electric utility relating to the deployment of a qualified smart grid system, including a reasonable rate of return on the capital expenditures of the electric utility for the deployment of the qualified smart grid system.

(C) OBSOLETE EQUIPMENT.—Each State shall consider authorizing any electric utility or other party of the State to deploy a qualified smart grid system to recover in a timely manner the remaining book-value costs of any equipment rendered obsolete by the deployment of the qualified smart grid system, based on the remaining depreciable life of the obsolete equipment.

(19) SMART GRID INFORMATION.—

(A) STANDARD.—All electricity purchasers shall be provided direct access, in written or electronic machine-readable form as appropriate, to information from their electricity provider as provided in subparagraph (B).

(B) INFORMATION.—Information provided under this section, to the extent practicable, shall include:

(i) PRICES.—Purchasers and other interested persons shall be provided with information on—

(I) time-based electricity prices in the wholesale electricity market; and

(II) time-based electricity retail prices or rates that are available to the purchasers.

(ii) USAGE.—Purchasers shall be provided with the number of electricity units, expressed in kwh, purchased by them.

(iii) INTERVALS AND PROJECTIONS.—Updates of information on prices and usage shall be offered on not less than a daily basis, shall include hourly price and use information, where available, and shall include a day-ahead projection of such price information to the extent available.

(iv) SOURCES.—Purchasers and other interested persons shall be provided annually with written information on the sources of the power provided by the utility, to the extent it can be determined, by type of generation, including greenhouse gas emissions associated with each type of generation, for intervals during which such information is available on a cost-effective basis.

(C) ACCESS.—Purchasers shall be able to access their own information at any time through the Internet and on other means of communication elected by that utility for Smart Grid applications. Other interested persons shall be able to access information not specific to any purchaser through the Internet. Information specific to any purchaser shall be provided solely to that purchaser.

(20) DEMAND-RESPONSE PRACTICES.—

(A) IN GENERAL.—Each electric utility shall promote the use of demand-response and demand flexibility practices by commercial, residential, and industrial consumers to reduce electricity consumption during periods of unusually high demand.

(B) RATE RECOVERY.—

(i) IN GENERAL.—Each State regulatory authority shall consider establishing rate mechanisms allowing an electric utility with respect to which the State regulatory authority has ratemaking authority to timely recover the costs of promoting demand-response and demand flexibility practices in accordance with subparagraph (A).

(ii) NONREGULATED ELECTRIC UTILITIES.—A nonregulated electric utility may establish rate mechanisms for the timely recovery of the costs of promoting demand-response and demand flexibility practices in accordance with subparagraph (A).

(21) ELECTRIC VEHICLE CHARGING PROGRAMS.—Each State shall consider measures to promote greater electrification of the transportation sector, including the establishment of rates that—

(A) promote affordable and equitable electric vehicle charging options for residential, commercial, and public electric vehicle charging infrastructure;

(B) improve the customer experience associated with electric vehicle charging, including by reducing charging times for light-, medium-, and heavy-duty vehicles;

(C) accelerate third-party investment in electric vehicle charging for light-, medium-, and heavy-duty vehicles; and

(D) appropriately recover the marginal costs of delivering electricity to electric vehicles and electric vehicle charging infrastructure.

(22) ENSURING ELECTRIC RELIABILITY WITH RELIABLE GENERATION FACILITIES.—

(A) IN GENERAL.—Each State regulated electric utility that employs integrated resource planning shall establish, as part of such integrated resource planning, measures, sufficient to ensure the reliable availability of electric energy over a 10-year period, to maintain—

(i) the operation of reliable generation facilities; or

(ii) the procurement of electric energy from reliable generation facilities.

(B) RELIABLE GENERATION FACILITY DEFINED.—In this paragraph, the term "reliable generation facility" means an electric generation facility that ensures the reliable availability of electric energy by—

(i) having operational characteristics to enable the generation of electric energy on a continuous basis for a period of not fewer than 30 days;

(ii) having—

(I) adequate fuel, or a continuously available energy source, on-site to enable the generation of electric energy on a continuous basis for a period of not fewer than 30 days; or

(II) contractual obligations that ensure adequate fuel supply to achieve the generation of electric energy on a continuous basis for a period of not fewer than 30 days;

(iii) having operational characteristics to enable the generation of electric energy during emergency and severe weather conditions; and

(iv) providing essential services related to the reliable availability of electric energy, including frequency support and voltage support.

SEC. 112. OBLIGATIONS TO CONSIDER AND DETERMINE.

(a) REQUEST FOR CONSIDERATION AND DETERMINATION.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility may undertake the consideration and make the determination referred to in section 111 with respect to any standard established by section 111(d) in any proceeding respecting the rates of the electric utility. Any participant or intervenor (including an intervenor referred to in section 121) in such a proceeding may request, and shall obtain, such consideration and determination in such proceeding. In undertaking such consideration and making such determination in any such proceeding with respect to the application to any electric utility of any standard established by section 111(d), a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility may take into account in such proceeding—

(1) any appropriate prior determination with respect to such standard—

(A) which is made in a proceeding which takes place after the date of the enactment of this Act, or

(B) which was made before such date (or is made in a proceeding pending on such date) and complies, as provided in section 124, with the requirements of this title; and

(2) the evidence upon which such prior determination was based (if such evidence is referenced in such proceeding).

(b) TIME LIMITATIONS.—(1) Not later than 2 years after the date of the enactment of this Act (or after the enactment of the Comprehensive National Energy Policy Act in the case of standards under paragraphs (7), (8), and (9) of section 111(d)), each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to each standard established by section 111(d).

(2) Not later than three years after the date of the enactment of this Act (or after the enactment of the Comprehensive National Energy Policy Act in the case of standards under paragraphs (7), (8), and (9) of section 111(d)), each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by section 111(d).

(3)(A) Not later than 2 years after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with

respect to each standard established by paragraphs (11) through (13) of section 111(d).

(B) Not later than 3 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (11) through (13) of section 111(d).

(4)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 111, or set a hearing date for such consideration, with respect to the standard established by paragraph (14) of section 111(d).

(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to the standard established by paragraph (14) of section 111(d).

(5)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (15) of section 111(d).

(B) Not later than two years after the date of the enactment of the this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraph (15) of section 111(d).

(6)(A) Not later than 1 year after the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated utility shall commence the consideration referred to in section 111, or set a hearing date for consideration, with respect to the standards established by paragraphs (16) through (19) of section 111(d).

(B) Not later than 2 years after the date of the enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 111 with respect to each standard established by paragraphs (16) through (19) of section 111(d).

(7)(A) Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority) and each nonregulated electric utility shall commence

consideration under section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (20) of section 111(d).

(B) Not later than 2 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority), and each nonregulated electric utility shall complete the consideration and make the determination under section 111 with respect to the standard established by paragraph (20) of section 111(d).

(8)(A) Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority) and each nonregulated utility shall commence consideration under section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (21) of section 111(d).

(B) Not later than 2 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each electric utility for which the State has ratemaking authority), and each nonregulated electric utility shall complete the consideration and make the determination under section 111 with respect to the standard established by paragraph (21) of section 111(d).

(9)(A) Not later than 1 year after the date of enactment of this paragraph, each State regulatory authority (with respect to each State regulated electric utility for which the State has ratemaking authority) shall commence consideration under section 111, or set a hearing date for consideration, with respect to the standard established by paragraph (22) of section 111(d).

(B) Not later than 2 years after the date of enactment of this paragraph, each State regulatory authority (with respect to each State regulated electric utility for which the State has ratemaking authority) shall complete the consideration and make the determination under section 111 with respect to the standard established by paragraph (22) of section 111(d).

(c) FAILURE TO COMPLY.—Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall undertake the consideration, and make the determination, referred to in section 111 with respect to each standard established by section 111(d) in the first rate proceeding commenced after the date three years after the date of enactment of this Act respecting the rates of such utility if such State regulatory authority or nonregulated electric utility has not, before such date, complied with ⟦subsection (b)(2)⟧ *subsection (b)* with respect to such standard. In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13). In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14). In the case of the standard established by paragraph (15) of section 111(d), the reference contained in this

subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (15). In the case of the standards established by paragraphs (16) through (19) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs. In the case of the standard established by paragraph (20) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (20). In the case of the standard established by paragraph (21) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (21). *In the case of the standard established by paragraph (22) of section 111(d), the reference contained in this subsection to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (22).*

(d) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standards established by paragraphs (11) through (13) and paragraphs (16) through (19) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.

(e) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (14) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility within the previous 3 years; or

(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility within the previous 3 years.

(f) PRIOR STATE ACTIONS.—Subsections (b) and (c) of this section shall not apply to the standard established by paragraph (15) of section 111(d) in the case of any electric utility in a State if, before the enactment of this subsection—

(1) the State has implemented for such utility the standard concerned (or a comparable standard);

(2) the State regulatory authority for such State or relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard concerned (or a comparable standard) for such utility; or

(3) the State legislature has voted on the implementation of such standard (or a comparable standard) for such utility.

(g) PRIOR STATE ACTIONS.—Subsections (b) and (c) shall not apply to the standard established by paragraph (20) of section 111(d) in the case of any electric utility in a State if, before the date of enactment of this subsection—

(1) the State has implemented for the electric utility the standard (or a comparable standard);

(2) the State regulatory authority for the State or the relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard (or a comparable standard) for the electric utility; or

(3) the State legislature has voted on the implementation of the standard (or a comparable standard) for the electric utility.

(h) OTHER PRIOR STATE ACTIONS.—Subsections (b) and (c) shall not apply to the standard established by paragraph (21) of section 111(d) in the case of any electric utility in a State if, before the date of enactment of this subsection—

(1) the State has implemented for the electric utility the standard (or a comparable standard);

(2) the State regulatory authority for the State or the relevant nonregulated electric utility has conducted a proceeding to consider implementation of the standard (or a comparable standard) for the electric utility; or

(3) the State legislature has voted on the implementation of the standard (or a comparable standard) for the electric utility during the 3-year period ending on that date of enactment.

(i) OTHER PRIOR STATE ACTIONS.—Subsections (b) and (c) shall not apply to the standard established by paragraph (22) of section 111(d) in the case of any State regulated electric utility in a State if, before the date of enactment of this subsection—

(1) the State has implemented for the State regulated electric utility the standard (or a comparable standard);

(2) the State regulatory authority for the State has conducted a proceeding to consider implementation of the standard (or a comparable standard) for the State regulated electric utility; or

(3) the State legislature has voted on the implementation of the standard (or a comparable standard) for the State regulated electric utility during the 3-year period ending on that date of enactment.

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Subtitle C—Intervention and Judicial Review

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SEC. 124. PRIOR AND PENDING PROCEEDINGS.

For purposes of subtitle A and B, and this subtitle, proceedings commenced by State regulatory authorities (with respect to electric utilities for which it has ratemaking authority) and nonregulated electric utilities before the date of the enactment of this Act and actions taken before such date in such proceedings shall be treated as complying with the requirements of subtitles A and B, and this

subtitle if such proceedings and actions, substantially conform to such requirements. For purposes of subtitles A and B, and this subtitle, any such proceeding or action commenced before the date of enactment of this Act, but not completed before such date, shall comply with the requirements of subtitles A and B, and this subtitle, to the maximum extent practicable, with respect to so much of such proceeding or action as takes place after such date, except as otherwise provided in section 121(c). In the case of each standard established by paragraphs (11) through (13) of section 111(d), the reference contained in this section to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraphs (11) through (13). In the case of the standard established by paragraph (14) of section 111(d), the reference contained in this section to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of such paragraph (14). In the case of each standard established by paragraph (15) of section 111(d), the reference contained in this section to the date of enactment of the Act shall be deemed to be a reference to the date of enactment of paragraph (15). In the case of the standard established by paragraph (20) of section 111(d), the reference contained in this section to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (20).In the case of the standard established by paragraph (21) of section 111(d), the reference contained in this section to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (21). *In the case of the standard established by paragraph (22) of section 111(d), the reference contained in this section to the date of enactment of this Act shall be deemed to be a reference to the date of enactment of that paragraph (22).*

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MINORITY VIEWS

H.R. 3628, the "State Planning For Reliability and Affordability Act," amends section 111(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) to require state public utility commissions to consider mandating that utilities include measures to procure non- intermittent electricity in their integrated resource plans.

This bill is a thinly veiled attack on clean energy and is unnecessary. The definition of "reliable generation facility" used in the bill is designed to exclude clean energy resources and energy storage technologies. If this bill becomes law, it would require state utility commissions to consider revising integrated resource planning requirements to include "reliable generation facilities," which the majority rightly points out in their report includes natural gas and coal facilities. This is particularly concerning given the potential for clean energy coupled with energy storage to help utilities meet rapid load growth, a problem the majority claims it is trying to solve with this bill.

Additionally, the bill will create confusion for utilities as it is not clear whether integrated resource plans that are revised or created under this new standard would be required to maintain operation of existing facilities in perpetuity, even as technologies evolve or as facilities become expensive to operate. The bill does not require the inclusion of cost-benefit assessments, and could result in ineffective and expensive facilities remaining online. H.R. 3628 is poorly drafted and requires additional clarity.

In addition to our above concerns, H.R. 3628 is ultimately unnecessary because PURPA already contains a definition of integrated resource planning which encompasses reliability. PURPA defines integrated resource planning as:

> ". . . a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis." [1]

Utilities that engage in integrated resource planning already consider reliability. H.R. 3628 only politicizes this process by adding constraints to how a utility configures its generating mix.

[1] 16 U.S.C § 2602.

Over the course of the 119th Congress, House Republicans and the Trump Administration have repeatedly attacked and targeted clean energy resources. Republicans' One Big Beautiful Bill is projected to raise electricity prices by 61 percent over the next decade.[2] Additionally, President Trump's determination to prolong the lifespan of retiring fossil fuel plants could cost Americans up to $6 billion a year.[3]

Republicans proceeded with these actions all while the House Energy and Commerce Committee received testimony from numerous witnesses who argued that clean energy resources and distributed energy resources could be deployed quickly and are critical to help meet rapid load growth.[4] One witness included in their written testimony the following endnote:

> "Numerous utilities across the country have engaged in planning processes to evaluate their needs in light of retirements, demand growth projections, and other relevant conditions. Many planners have determined that the least-cost portfolio of resources that will reliably meet electricity demand includes only modest quantities of dispatchable resources."[5]

H.R. 3628 is a disingenuous proposal that targets clean energy projects, doubles down on fossil fuels, and does not seriously attempt to address concerns of load growth or grid reliability. Utilities that engage in integrated resource planning are already considering reliability and should be allowed to consider the generating mix that best fits their needs. For the reasons stated above, I oppose this legislation.

FRANK PALLONE, Jr.
Ranking Member.

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[2] Energy Innovation, *Economic Impacts of U.S. Senate "One Big Beautiful Bill Act" Energy Provisions* (June 29, 2025).

[3] Grid Strategies, *The Cost of Federal Mandates to Retain Fossil-Burning Power Plants* (August 2025).

[4] House Committee on Energy and Commerce, Testimony of Tyler O'Connor, Partner, Crowell & Moring LLP, *Hearing on Power America's Future: Unleashing American Energy,* 119th Cong. (Feb. 5, 2025).

[5] House Committee on Energy and Commerce, Testimony of Kim Smaczniak, Partner, Roselle LLP, *Hearing on Assuring Reliable and Abundant American Energy*, 119th Cong. (April 30, 2025).