

1 **TITLE _____—SITING OF INTER-**
2 **STATE ELECTRIC TRANS-**
3 **MISSION FACILITIES**

4 **SEC. __01. SITING OF INTERSTATE ELECTRIC TRANS-**
5 **MISSION FACILITIES.**

6 Section 216 of the Federal Power Act (16 U.S.C.
7 824p) is amended to read as follows:

8 **“SEC. 216. SITING OF INTERSTATE ELECTRIC TRANS-**
9 **MISSION FACILITIES.**

10 “(a) **POLICY.**—It is the policy of the United States
11 that the national interstate transmission system should be
12 guided by the goal of maximizing the net benefits of the
13 electricity system, taking into consideration—

14 “(1) support for the development of new renew-
15 able energy generation capacity, including renewable
16 energy generation located distant from load centers
17 and other location-constrained resources;

18 “(2) opportunities for reduced emissions from
19 regional power production;

20 “(3) cost savings resulting from—

21 “(A) reduced transmission congestion;

1 “(B) enhanced opportunities for
2 intraregional and interregional electricity
3 trades;

4 “(C) reduced line losses;

5 “(D) generation resource-sharing; and

6 “(E) enhanced fuel diversity;

7 “(4) reliability benefits, including satisfying re-
8 liability standards and guidelines for resource ade-
9 quacy and system security;

10 “(5) diversification of risk relating to events af-
11 fecting fuel supply or generating resources in a par-
12 ticular region;

13 “(6) the enhancement of competition in elec-
14 tricity markets and mitigation of market power;

15 “(7) the ability to collocate facilities on existing
16 rights-of-way;

17 “(8) competing land use priorities, including
18 land protected under Federal or State law;

19 “(9) the requirements of section 217(b)(4); and

20 “(10) the contribution of demand side manage-
21 ment (including energy efficiency and demand re-
22 sponse), energy storage, distributed generation re-
23 sources, and smart grid investments.

24 “(b) DEFINITIONS.—In this section:

1 “(1) HIGH-PRIORITY NATIONAL TRANSMISSION
2 PROJECT.—The term ‘high-priority national trans-
3 mission project’ means an overhead or underground
4 transmission facility, consisting of conductors or ca-
5 bles, towers, manhole duct systems, phase shifting
6 transformers, reactors, capacitors, and any ancillary
7 facilities and equipment necessary for the proper op-
8 eration of the facility, that—

9 “(A)(i) operates at or above a voltage of
10 345 kilovolts alternating current;

11 “(ii) operates at or above a voltage of 300
12 kilovolts direct current; or

13 “(iii) is a renewable feeder line that trans-
14 mits electricity directly to a transmission facil-
15 ity that operates at or above a voltage of 345
16 kilovolts alternating current or 300 kilovolts di-
17 rect current; and

18 “(B) is included in a regional plan pursu-
19 ant to subsection (c).

20 “(2) LOAD-SERVING ENTITY.—Except as other-
21 wise provided in this section, the term ‘load-serving
22 entity’ means any person, Federal, State, or local
23 agency or instrumentality, Indian tribe, or electric
24 cooperative that delivers electric energy to end-use
25 customers.

1 “(3) RENEWABLE ENERGY.—The term ‘renew-
2 able energy’ means electric energy generated from—

3 “(A) solar energy;

4 “(B) wind energy;

5 “(C) marine and hydrokinetic renewable
6 energy;

7 “(D) geothermal energy;

8 “(E) hydropower;

9 “(F) biomass; or

10 “(G) landfill gas.

11 “(4) RENEWABLE FEEDER LINE.—The term
12 ‘renewable feeder line’ means a transmission line
13 that—

14 “(A) operates at a voltage of 100 kilovolts
15 or greater; and

16 “(B) is identified in the applicable Inter-
17 connection-wide transmission plan or by the
18 Commission as a facility that is to be developed
19 to facilitate collection of electric energy pro-
20 duced by renewable energy.

21 “(5) SECRETARY.—The term ‘Secretary’ means
22 the Secretary of Energy.

23 “(c) PLANS FOR NATIONAL INTERSTATE TRANS-
24 MISSION SYSTEM.—

1 “(1) IN GENERAL.—The Commission shall co-
2 ordinate regional planning to ensure that regional
3 plans are integrated into an Interconnection-wide
4 transmission plan with respect to high-priority na-
5 tional transmission projects, that achieves the policy
6 established under subsection (a).

7 “(2) PLANNING PRINCIPLES.—

8 “(A) IN GENERAL.—Not later than 180
9 days after the date of enactment of the
10 _____ Act of 2009, the Commission shall
11 issue, by rule, after notice and opportunity for
12 comment, national electricity grid planning
13 principles pursuant to the policy established
14 under subsection (a).

15 “(B) CONTENT.—The principles shall—

16 “(i) address how the utilities should
17 fully incorporate consideration of the need
18 for high-priority national transmission
19 projects into planning efforts;

20 “(ii) address how the utilities should
21 coordinate with each other, States, and
22 other planning efforts in the applicable
23 Interconnection to effectively develop an
24 Interconnection-wide analysis to identify
25 needed additions or modifications to high-

1 priority national transmission projects,
2 with particular attention to identifying
3 needs that can be most efficiently and ef-
4 fectively addressed with high-priority na-
5 tional transmission projects that cross mul-
6 tiple utilities, Regional Transmission Orga-
7 nizations, or Independent System Opera-
8 tors; and

9 “(iii) include mechanisms for solici-
10 ting input from the Secretary, Federal
11 transmitting utilities, the Secretary of the
12 Interior, States, electric reliability organi-
13 zations, regional entities, entities described
14 in section 201(f), other interested parties,
15 and the public.

16 “(C) FACTORS.—Plans for the develop-
17 ment and improvement of high-priority national
18 transmission projects into a national high-ca-
19 pacity transmission grid shall take into consid-
20 eration—

21 “(i) the location of load centers;

22 “(ii) the location of generation and
23 potential generation development;

24 “(iii) existing and potential demand
25 side management (including energy effi-

ciency and demand response), energy storage, distributed generation resources, and smart grid investments;

“(iv) the plans of Regional Transmission Organizations, Independent System Operators, State authorities, transmission owners, load-serving entities, and others in the region;

“(v) the needs and long-term rights described in section 217(b); and

“(vi) costs to consumers of high priority national transmission projects, including considering the cost of reasonable alternatives.

“(3) SUBMISSION OF PLANS.—

“(A) IN GENERAL.—A transmission planning entity shall—

“(i) develop a regional plan relating to a high priority national transmission project that is consistent with the planning principles established by the Commission; and

“(ii) submit the plan to the Commission—

1 “(I) as soon as practicable, but
2 not later than 2 years, after the date
3 of enactment of the _____ Act of
4 2009; and

5 “(II) periodically thereafter as
6 prescribed by the Commission.

7 “(B) COORDINATION.—

8 “(i) JOINT SUBMISSIONS.—The re-
9 quirements of subparagraph (A) may be
10 satisfied by a joint submission.

11 “(ii) SINGLE INTERCONNECTION-WIDE
12 PLAN.—The Commission shall encourage
13 coordination that would permit submission
14 of a single Interconnection-wide plan for
15 high priority national transmission
16 projects.

17 “(C) MODIFICATIONS.—The Commission
18 may require modification of a submitted plan to
19 the extent that the Commission determines that
20 the modification is necessary—

21 “(i) to reconcile inconsistencies be-
22 tween plans submitted; or

23 “(ii) to achieve the policy goals estab-
24 lished under subsection (a).

1 “(4) APPLICABILITY.—The transmission plan-
2 ning principles and requirements of this subsection
3 shall apply to each transmission owner and trans-
4 mission planning entity in the United States portion
5 of the Eastern and Western Interconnections, in-
6 cluding an entity described in section 201(f).

7 “(d) SITING.—

8 “(1) PURPOSES.—The purpose of this sub-
9 section is to ensure that high-priority national trans-
10 mission projects are in the public interest and ad-
11 vance the policy established under subsection (a).

12 “(2) DESIGNATION OF ELIGIBILITY.—The Com-
13 mission may grant an applicant that submits an ap-
14 plication for a proposed project a designation of eli-
15 gibility for consideration under this subsection if the
16 Commission finds that the proposed project is a
17 high-priority national transmission project.

18 “(3) STATE REVIEW OF PROJECT SITING.—

19 “(A) IN GENERAL.—No developer of a
20 high-priority national transmission project may
21 seek a certificate for construction under sub-
22 section (e) unless the developer first seeks au-
23 thorization to construct the high-priority na-
24 tional transmission project under applicable

1 State law concerning authorization and routing
2 of transmission facilities.

3 “(B) FEDERAL AUTHORITY.—The Com-
4 mission may authorize, in accordance with sub-
5 section (e), construction of a high-priority na-
6 tional transmission project that the Commission
7 finds to be in the public interest and in accord-
8 ance with this section if a State—

9 “(i) fails to approve construction and
10 authorize routing of a high-priority na-
11 tional transmission project not later than 1
12 year after the date the applicant submits a
13 completed application for authorization to
14 the State;

15 “(ii) rejects the application for a high-
16 priority national transmission project; or

17 “(iii) authorizes the high-priority na-
18 tional transmission project subject to con-
19 ditions that unreasonably interfere with
20 the development of a high-priority national
21 transmission project contrary to the pur-
22 poses of this section.

23 “(e) CONSTRUCTION.—

24 “(1) APPLICATION FOR CERTIFICATE.—

1 “(A) IN GENERAL.—An applicant for a
2 high-priority national transmission project may
3 apply to the Commission for a certificate of
4 public convenience and necessity with respect to
5 construction of the high-priority national trans-
6 mission project within a State affected by the
7 high-priority national transmission project if
8 the State—

9 “(i) fails to authorize construction of
10 the high-priority national transmission
11 project under State law not later than 1
12 year after the date the developer submits a
13 completed application for authorization to
14 the State;

15 “(ii) rejects the application for the
16 high-priority national transmission project;
17 or

18 “(iii) authorizes the high-priority na-
19 tional transmission project subject to con-
20 ditions that unreasonably interfere with
21 the development of a high-priority national
22 transmission project contrary to the pur-
23 poses of this section.

24 “(B) FORM.—The application for a certifi-
25 cate shall be made in writing in such form and

1 containing such information as the Commission
2 may by regulation require.

3 “(C) HEARING.—On receipt of an applica-
4 tion under this paragraph, the Commission—

5 “(i) shall provide notice to interested
6 persons and opportunity for hearing; and

7 “(ii) may approve (with or without
8 conditions) or disapprove the application,
9 in accordance with paragraph (2).

10 “(2) GRANT OF CERTIFICATE.—

11 “(A) IN GENERAL.—A certificate shall be
12 issued to a qualified applicant for a certificate
13 authorizing the whole or partial operation, con-
14 struction, acquisition, or modification covered
15 by the application, only if the Commission de-
16 termines that—

17 “(i) the applicant is able and will-
18 ing—

19 “(I) to do the acts and to per-
20 form the service proposed; and

21 “(II) to comply with this Act (in-
22 cluding regulations); and

23 “(ii) the proposed operation, construc-
24 tion, acquisition, or modification, to the ex-
25 tent authorized by the certificate, is or will

1 be required by the present or future public
2 convenience and necessity.

3 “(B) TERMS AND CONDITIONS.—The Com-
4 mission shall have the power to attach to the
5 issuance of a certificate under this paragraph
6 and to the exercise of the rights granted under
7 the certificate such reasonable terms and condi-
8 tions as the public convenience and necessity
9 may require.

10 “(C) EVALUATION OF ABILITIES OF APPLI-
11 CANT.—

12 “(i) IN GENERAL.—In evaluating the
13 ability of an applicant described in sub-
14 paragraph (A)(i), the Commission shall
15 consider whether the financial and tech-
16 nical capabilities of the applicant are ade-
17 quate to support construction and oper-
18 ation of the high-priority national trans-
19 mission project proposed in the application.

20 “(ii) JOINT OWNERSHIP PROJECTS.—
21 In evaluating applications involving joint
22 ownership projects by multiple load-serving
23 entities, the Commission shall consider
24 benefits from the greater diversification of
25 financial risk inherent in the applications.

1 “(D) PUBLIC CONVENIENCE AND NECES-
2 SITY.—In making a determination with respect
3 to public convenience and necessity described in
4 subparagraph (A)(ii), the Commission shall—

5 “(i) consider whether the facilities
6 covered by an application are included in
7 an Interconnection-wide transmission grid
8 plan for a high-priority national trans-
9 mission project developed pursuant to sub-
10 section (c); and

11 “(ii) determine whether the facilities
12 covered by the application are in the public
13 interest.

14 “(3) RIGHT OF EMINENT DOMAIN.—

15 “(A) IN GENERAL.—If any holder of a cer-
16 tificate issued under paragraph (2) cannot ac-
17 quire by contract, or is unable to agree with the
18 owner of property on the compensation to be
19 paid for, the necessary right-of-way to con-
20 struct, operate, and maintain the high-priority
21 national transmission project to which the cer-
22 tificate relates, and the necessary land or other
23 property necessary to the proper operation of
24 the high-priority national transmission project,

1 the holder may acquire the right-of-way by the
2 exercise of the right of eminent domain in—

3 “(i) the United States district court
4 for the district in which the property is lo-
5 cated; or

6 “(ii) a State court.

7 “(B) PRACTICE AND PROCEDURE.—The
8 practice and procedure for any action or pro-
9 ceeding described in subparagraph (A) in a
10 United States district court shall conform, to
11 the maximum extent practicable, to the practice
12 and procedure for similar actions or pro-
13 ceedings in the courts of the State in which the
14 property is located.

15 “(4) STATE RECOMMENDATIONS.—In granting
16 a certificate under paragraph (2), the Commission
17 shall—

18 “(A) permit State regulatory agencies to
19 recommend mitigation measures, based on habi-
20 tat protection, environmental considerations, or
21 cultural site protection; and

22 “(B)(i) incorporate those identified mitiga-
23 tion measures as conditions on the certificate;
24 or

1 “(ii) if the Commission determines that a
2 recommended mitigation measure is incon-
3 sistent with the purposes of this section, infea-
4 sible, or not cost-effective—

5 “(I) consult with State regulatory
6 agencies to seek to resolve the issue;

7 “(II) incorporate as conditions on the
8 certificate such recommended mitigation
9 measures as are determined to be appro-
10 priate by the Commission, based on con-
11 sultation by the Commission with State
12 regulatory agencies, the purposes of this
13 section, and the record before the Commis-
14 sion; and

15 “(III) if, after consultation, the Com-
16 mission does not adopt in whole or in part
17 a recommendation of an agency, publish a
18 statement of a finding that the adoption of
19 the recommendation is infeasible, not cost-
20 effective, or inconsistent with this section
21 or other applicable provisions of law.

22 “(5) STATE OR LOCAL AUTHORIZATIONS.—An
23 applicant receiving a certificate under this sub-
24 section with respect to construction or modification
25 of a high-priority national transmission project in a

1 State shall not require a separate siting authoriza-
2 tion from the State or any local authority within the
3 State.

4 “(f) COORDINATION OF FEDERAL AUTHORIZATIONS
5 FOR TRANSMISSION FACILITIES.—

6 “(1) DEFINITION OF FEDERAL AUTHORIZA-
7 TION.—In this subsection, the term ‘Federal author-
8 ization’ means any authorization required under
9 Federal law in order to site a transmission facility
10 on Federal land, including such permits, special use
11 authorizations, certifications, opinions, or other ap-
12 provals as may be required under Federal law in
13 order to site a transmission facility.

14 “(2) LEAD AGENCY.—If a Federal authoriza-
15 tion for a high-priority national transmission project
16 involves land under the jurisdiction of the Depart-
17 ment of the Interior and any other Federal agency,
18 the Secretary of the Interior shall act as the lead
19 agency for purposes of coordinating all applicable
20 Federal authorizations and related environmental re-
21 views.

22 “(3) COORDINATION.—To the maximum extent
23 practicable under applicable Federal law, the Sec-
24 retary of the Interior shall coordinate the Federal
25 authorization and review process under this sub-

1 section with the Commission, and with any Indian
2 tribes, multistate entities, and State agencies that
3 are responsible for conducting any separate permit-
4 ting and environmental reviews of the facility, to en-
5 sure timely and efficient review and permit deci-
6 sions.

7 “(4) MILESTONES AND DEADLINES.—

8 “(A) IN GENERAL.—As the lead agency,
9 the Secretary of the Interior, in consultation
10 with the Commission and any other agency re-
11 sponsible for Federal authorizations and, as ap-
12 propriate, with Indian tribes, multistate enti-
13 ties, and State agencies that are willing to co-
14 ordinate their own separate permitting and en-
15 vironmental reviews with the Federal authoriza-
16 tion and environmental reviews, shall establish
17 prompt and binding intermediate milestones
18 and ultimate deadlines for the review of, and
19 Federal authorization decisions relating to, the
20 proposed high-priority national transmission
21 project.

22 “(B) DEADLINE.—The Secretary of the
23 Interior shall ensure that, once an application
24 has been submitted with such data as the Com-
25 mission and the Secretaries with jurisdiction

over the affected land consider necessary, all permit decisions and related environmental reviews under all applicable Federal laws shall be completed not later than 1 year after the date of submission.

“(C) PREAPPLICATION INFORMATION.—

The Secretary of the Interior, in consultation with the Commission, shall provide an expeditious preapplication mechanism for prospective applicants to confer with the agencies involved to have each such agency determine and communicate to the prospective applicant not later than 60 days after the prospective applicant submits a request for such information concerning—

“(i) the likelihood of approval for a potential facility; and

“(ii) key issues of concern to the agencies and public.

“(5) ENVIRONMENTAL REVIEW DOCUMENT.—

“(A) IN GENERAL.—As lead agency, the Secretary of the Interior, in consultation with the Commission and any affected agency, shall prepare a single environmental review document, which shall be used as the basis for all

1 decisions on the proposed high-priority national
2 transmission project under Federal law.

3 “(B) STREAMLINING.—The Secretary of
4 the Interior and the Secretary of Agriculture, in
5 consultation with the Commission, shall stream-
6 line the review and permitting of transmission
7 within corridors designated under section 503
8 of the Federal Land Policy and Management
9 Act of 1976 (43 U.S.C. 1763) or section 368
10 of the Energy Policy Act of 2005 (42 U.S.C.
11 15926) by fully taking into account prior anal-
12 yses and decisions relating to the corridors.

13 “(C) COMMENTS.—If the high-priority na-
14 tional transmission project includes Federal
15 land that is not under the jurisdiction of the
16 Department of the Interior, the document shall
17 include comments made by the Secretary with
18 jurisdiction over the affected land on matters
19 necessary for the protection of the land or re-
20 quired under applicable law.

21 “(6) ISSUANCE OR DENIAL OF AUTHORIZATION

22 BY PRESIDENT.—

23 “(A) IN GENERAL.—Subject to paragraph
24 (7), if any agency has denied a Federal author-
25 ization required for a transmission facility with-

1 in an energy right-of-way corridor on Federal
2 land designated pursuant to section 368 of the
3 Energy Policy Act of 2005 (42 U.S.C. 15926),
4 or has failed to act by the deadline established
5 by the Secretary of the Interior pursuant to
6 this section for deciding whether to issue the
7 authorization, the applicant or any State in
8 which the facility would be located may file an
9 appeal with the President, who shall, in con-
10 sultation with the affected agency, review the
11 denial or failure to take action on the pending
12 application.

13 “(B) OPTIONS.—Based on the overall
14 record and in consultation with the affected
15 agency, the President may—

16 “(i) issue the necessary authorization
17 with any appropriate conditions; or

18 “(ii) deny the application.

19 “(C) DEADLINE.—The President shall
20 issue a decision not later than 90 days after the
21 date of the filing of the appeal.

22 “(D) FEDERAL REQUIREMENTS.—In mak-
23 ing a decision under this paragraph, the Presi-
24 dent shall comply with applicable requirements
25 of Federal law, including any requirements of—

1 “(i) the National Forest Management
2 Act of 1976 (16 U.S.C. 1600 et seq.);

3 “(ii) the Endangered Species Act of
4 1973 (16 U.S.C. 1531 et seq.);

5 “(iii) the Federal Water Pollution
6 Control Act (33 U.S.C. 1251 et seq.);

7 “(iv) the National Environmental Pol-
8 icy Act of 1969 (42 U.S.C. 4321 et seq.);
9 and

10 “(v) the Federal Land Policy and
11 Management Act of 1976 (43 U.S.C. 1701
12 et seq.).

13 “(7) ISSUANCE OR DENIAL OF AUTHORIZATION
14 BY PRESIDENT.—Paragraph (6) shall not apply to—

15 “(A) a unit of the National Park System;

16 “(B) a unit of the National Wildlife Ref-
17 uge System;

18 “(C) a component of the National Wild
19 and Scenic Rivers System;

20 “(D) a component of the National Trails
21 System;

22 “(E) a component of the National Wilder-
23 ness Preservation System;

24 “(F) a National Monument;

1 “(G) any part of the National Landscape
2 Conservation System;

3 “(H) a National Preserve;

4 “(I) a National Scenic Area; or

5 “(J) a National Recreation Area.

6 “(8) ENERGY RIGHT-OF-WAY CORRIDORS ON
7 FEDERAL LAND.—

8 “(A) IN GENERAL.—In carrying out this
9 subsection, the Secretary with jurisdiction over
10 the land shall, to the maximum extent prac-
11 ticable, use the energy right-of-way corridors
12 designated in accordance with section 368 of
13 the Energy Policy Act of 2005 (42 U.S.C.
14 15926).

15 “(B) ADDITIONAL CORRIDORS.—If the
16 Secretary is unable to use an energy right-of-
17 way corridor described in subparagraph (A), the
18 Secretary shall establish an additional corridor
19 in accordance with section 368(c) of the Energy
20 Policy Act of 2005 (42 U.S.C. 15926(c)).

21 “(9) DURATION.—

22 “(A) IN GENERAL.—Each Federal land
23 use authorization for an electricity transmission
24 facility shall be issued—

1 “(i) for a duration, as determined by
2 the Secretary with jurisdiction over the
3 land, commensurate with the anticipated
4 use of the facility;

5 “(ii) with appropriate authority to
6 manage the right-of-way for reliability and
7 environmental protection; and

8 “(iii) consistent with the Federal
9 Land Policy and Management Act of 1976
10 (43 U.S.C. 1701 et seq.) and other appli-
11 cable law.

12 “(B) RENEWAL.—On the expiration of the
13 authorization (including an authorization issued
14 before the date of enactment of the _____
15 Act of 2009), the authorization shall be re-
16 viewed for renewal—

17 “(i) taking fully into account reliance
18 on the electricity infrastructure; and

19 “(ii) recognizing the importance of the
20 authorization for public health, safety, and
21 economic welfare and as a legitimate use of
22 Federal land.

23 “(10) CONSULTATION.—In exercising the re-
24 sponsibilities under this section, the Secretary of the

1 Interior and the Commission shall consult regularly
2 with—

3 “(A) electric reliability organizations (in-
4 cluding related regional entities) approved by
5 the Commission;

6 “(B) Transmission Organizations approved
7 by the Commission; and

8 “(C) transmission owners and users and
9 other interested parties.

10 “(11) INDIAN LAND.—

11 “(A) DEFINITION OF INDIAN LAND.—In
12 this paragraph, the term ‘Indian land’ means
13 land—

14 “(i) title to which is held by the
15 United States in trust for an Indian tribe
16 or individual; or

17 “(ii) that is held by an Indian tribe or
18 individual subject to a restriction by the
19 United States against alienation or encum-
20 brance.

21 “(B) RIGHTS-OF-WAY.—In the case of a
22 right-of way over Indian land, a certificate hold-
23 er under this section shall comply with the re-
24 quirements of Federal law for obtaining rights-
25 of-way over Indian land.

1 “(12) IMPLEMENTATION.—

2 “(A) REGULATIONS.—Not later than 18
3 months after the date of enactment of the
4 _____ Act of 2009, the Secretary of the In-
5 terior and the Commission shall issue any regu-
6 lations necessary to carry out this subsection.

7 “(B) FEDERAL STAFF AND RESOURCES.—
8 The head of each Federal agency with authority
9 to issue a Federal authorization shall designate
10 a senior official responsible for, and dedicate
11 sufficient other staff and resources to ensure,
12 full implementation of the regulations and
13 memorandum required under this paragraph.

14 “(g) EVALUATION AND RECOMMENDATIONS.—The
15 Commission shall—

16 “(1) periodically evaluate whether high-priority
17 national transmission projects are being constructed
18 in accordance with the Interconnection-wide trans-
19 mission grid plan for high-priority national trans-
20 mission projects for both the Western and Eastern
21 Interconnection areas;

22 “(2) take any necessary actions, pursuant to
23 applicable law, to address any identified obstacles to
24 investment, siting, and construction of high-priority

1 national transmission projects identified as needed
2 under an Interconnection-wide plan; and

3 “(3) not later than 2 years after the date of en-
4 actment of the _____ Act of 2009, submit to
5 Congress recommendations for any further actions
6 or authority needed to ensure the effective and time-
7 ly development of high-priority national transmission
8 projects.

9 “(h) COST ALLOCATION.—

10 “(1) IN GENERAL.—Not later than 270 days
11 after the date of enactment of the _____ Act of
12 2009, the Commission—

13 “(A) shall establish by rule an appropriate
14 methodology for allocation of the costs of high-
15 priority national transmission projects, subject
16 to the requirement that any cost allocation
17 methodology, and any rates affected by the cost
18 allocation methodology, shall be just, reason-
19 able, and not unduly discriminatory or pref-
20 erential;

21 “(B) may permit allocation of costs for
22 high-priority national transmission projects to
23 load-serving entities within all or a part of a re-
24 gion, except that costs shall not be allocated to

1 a region, or subregion, that are disproportionate
2 to reasonably anticipated benefits; and

3 “(C) shall provide for due deference to cost
4 allocation proposals supported by broad agree-
5 ment among affected States.

6 “(2) MECHANISM FOR COLLECTION OF
7 COSTS.—The Commission shall adopt such rules and
8 require inclusion of such provisions in transmission
9 tariffs as are required to provide for—

10 “(A) the efficient collection of allocated
11 costs for development and operation of high-pri-
12 ority national transmission projects; and

13 “(B) the distribution of those revenues to
14 owners of the high-priority national trans-
15 mission projects.

16 “(i) RELATIONSHIP TO OTHER LAWS.—

17 “(1) IN GENERAL.—Except as specifically pro-
18 vided in this section, nothing in this section affects
19 any requirement of an environmental or historic
20 preservation law of the United States, including—

21 “(A) the National Environmental Policy
22 Act of 1969 (42 U.S.C. 4321 et seq.);

23 “(B) the Wilderness Act (16 U.S.C. 1131
24 et seq.); or

1 “(C) the National Historic Preservation
2 Act (16 U.S.C. 470 et seq.).

3 “(2) STATE LAW.—Nothing in this section pre-
4 cludes any person from constructing or modifying
5 any transmission facility in accordance with State
6 law.

7 “(j) TRANSMISSION RIGHTS TO SUPPORT NEW GEN-
8 eration DEVELOPMENT.—Subject to section 217(b)(4),
9 it is the policy of the United States that long-term trans-
10 mission rights of firmness and duration sufficient to sup-
11 port generation investment (or equivalent tradable or fi-
12 nancial long-term transmission rights), shall be available
13 under appropriate terms and conditions to load-serving en-
14 tities (as defined in section 217(a)(2)) for long-term power
15 supply arrangements for new generation facilities using
16 renewable energy.

17 “(k) CONGESTION STUDIES.—Not later than 1 year
18 after the date of enactment of the _____ Act of 2009
19 and every 3 years thereafter, the Secretary, in consulta-
20 tion with affected States and Indian tribes, shall—

21 “(1) conduct a study of electric transmission
22 congestion; and

23 “(2) submit to the appropriate committees of
24 Congress a report that describes the results of the
25 study.

1 “(l) APPLICABILITY.—

2 “(1) IN GENERAL.—Except as otherwise pro-
3 vided in this subsection, the authority of the Com-
4 mission under this section to approve transmission
5 plans and to allocate costs incurred pursuant to the
6 plans applies to all transmission providers, genera-
7 tors, and users, owners, and operators of the power
8 system within the Eastern and Western Interconnec-
9 tions of the United States, including entities de-
10 scribed in section 201(f).

11 “(2) REGIONAL PLANNING ENTITIES.—The
12 Commission shall have authority over regional plan-
13 ning entities to the extent necessary to carry out
14 this section.

15 “(3) PROJECT DEVELOPERS.—Nothing in this
16 section precludes the development, subject to appli-
17 cable regulatory requirements, of transmission
18 projects that are not included in plans developed
19 under this section.

20 “(4) EXCLUSIONS.—This section does not apply
21 in the State of Alaska or Hawaii or to the Electric
22 Reliability Council of Texas, unless the State or the
23 Council voluntarily elects to participate in a cost al-
24 location plan under this section.”.