

118TH CONGRESS
2D SESSION

H. R. 8968

To amend the Federal Power Act to require annual reports on generation and load capacity by Regional Transmission Organizations and Independent System Operators, to establish reliability markets, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 9, 2024

Mrs. LESKO (for herself and Mr. LATTA) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Power Act to require annual reports on generation and load capacity by Regional Transmission Organizations and Independent System Operators, to establish reliability markets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Keeping the Lights
5 On Act”.

1 **SEC. 2. ESTABLISHMENT OF RELIABILITY MARKETS FOR**
2 **THE BULK-POWER SYSTEM.**

3 The Federal Power Act (16 U.S.C. 791a et seq.) is
4 amended by inserting after section 215A the following:

5 **“SEC. 215B. RELIABILITY MARKETS.**

6 “(a) **PURPOSE.**—The purpose of this section is to en-
7 sure the reliability of the bulk-power system.

8 “(b) **REPORTS ON GENERATION AND LOAD.**—The
9 Commission shall require, by rule or order, each RTO and
10 ISO to submit to the Commission, not less frequently than
11 once a year, a report that identifies, with respect to the
12 public utilities that are part of the RTO or ISO—

13 “(1) the ten-year historical and ten-year pro-
14 jected gross peak load and net peak load for every
15 fifteen minutes of each day of the year;

16 “(2) the impact of extreme weather on electric
17 demand and generation resource availability;

18 “(3) reserve margins of generation resource ca-
19 pacity based on the generation resource types needed
20 to meet demand for every fifteen minutes of each
21 day;

22 “(4) each generation resource (and the net ca-
23 pacity factor of each generation resource), including
24 each generation resource that is a dispatchable on
25 demand continuous resource, a dispatchable on de-
26 mand short-term resource, an intermittent genera-

1 tion resource, or an inverter based generation re-
2 source;

3 “(5) the energy source, such as coal, nuclear,
4 natural gas, hydro, wind, or solar, of each genera-
5 tion resource identified under paragraph (4);

6 “(6) whether a generation resource identified
7 under paragraph (4) relies on—

8 “(A) fuel deliveries, including the method
9 by which such fuel is delivered (such as pipe-
10 line, rail, or barge); and

11 “(B) on-site fuel supplies (including how
12 long the generation resource can operate on
13 such fuel supplies);

14 “(7) whether each generation resource identi-
15 fied under paragraph (4) that is operated using nat-
16 ural gas is supplied by firm transportation on nat-
17 ural gas pipelines;

18 “(8) whether the energy source of a generation
19 resources identified under paragraph (4) is depend-
20 ant on the time of day and weather;

21 “(9) projected shortfalls in generation needed to
22 meet system needs for every fifteen minutes of the
23 day each year and during extreme weather; and

1 “(10) other factors identified by the Commis-
2 sion as important for the reliability of the bulk-
3 power system.

4 “(c) RELIABILITY MARKETS.—

5 “(1) NEW SCHEDULES.—Each RTO and ISO
6 shall file under section 205 a new schedule which
7 shall ensure that dispatchable on demand continuous
8 resources are available when intermittent generation
9 resources are not available to meet net peak load for
10 every 15 minutes of each day of the year. A schedule
11 filed under section 205 pursuant to this paragraph
12 that differentiates between the operating characteris-
13 tics of generation resources for purposes of sup-
14 porting the reliability of the bulk-power system shall
15 not be considered unjust, unreasonable, or unduly
16 preferential under section 205.

17 “(2) ESTABLISHMENT.—

18 “(A) IN GENERAL.—In approving a sched-
19 ule filed pursuant to paragraph (1), the Com-
20 mission shall consider one of the following:

21 “(i) Establishing at least one reli-
22 ability market where only dispatchable on
23 demand continuous resources and
24 dispatchable on demand short-term re-
25 sources may participate, which may be es-

1 established separately or combined for such
2 dispatchable on demand continuous re-
3 sources and dispatchable on demand short-
4 term resources.

5 “(ii) Establishing a reliability market
6 or modifying existing capacity markets to
7 require intermittent resources to purchase
8 electricity generated by a dispatchable on
9 demand continuous resource when the
10 intermittent resource is not available to
11 generate electricity.

12 “(iii) Establishing another mechanism
13 that will support the availability of
14 dispatchable on demand continuous re-
15 sources and dispatchable on demand short-
16 term resources to support the reliability of
17 the bulk-power systems at all times
18 through the year (measured every 15 min-
19 utes of each day).

20 “(B) CHARGE FOR DELIVERY FAILURE.—

21 The Commission shall establish penalties for
22 each generation resource that fails to generate
23 electricity in accordance with the requirements
24 of a market or mechanism established under
25 subparagraph (A).

1 “(C) FORWARD PROCUREMENT AUC-
2 TION.—No public utility may accept an offer at
3 a forward procurement auction for a price that
4 is less than the marginal costs to operate the
5 public utility.

6 “(d) COMMISSION APPROVAL OF RATES AND
7 CHARGES.—For the purposes of cost allocation of trans-
8 mission services (including costs associated with inter-
9 connection, network upgrades, and the construction and
10 expansion of new transmission lines), no rate or charge
11 shall be considered just and reasonable under section
12 205—

13 “(1) if such rate or charge—

14 “(A) socializes costs of transmission serv-
15 ice to electric consuming customers who do not
16 receive direct and quantifiable all-in costs of de-
17 livered electric service or to meet reliability
18 standards from the transmission service; or

19 “(B) allocates costs of transmission service
20 to the electric customers of one State for trans-
21 mission service that will primarily serve electric
22 customers of another State or region; and

23 “(2) direct benefits may include the energy and
24 transmission cost benefits (but must consider the
25 cost of generation, transmission reliability com-

1 bined); direct benefits shall not include environ-
2 mental or health benefits; reduction of greenhouse
3 gas emissions; or environmental leakage between
4 States or regions; however the generating resource
5 that causes the need for transmission service may be
6 permitted or required to pay directly for the costs of
7 transmission such service.

8 “(e) EXPANSION TO OTHER STATES.—The Commis-
9 sion may not require any public utility or generation re-
10 source within a State or region to join an RTO or ISO
11 unless the applicable State or State regulatory authority
12 agrees to join the RTO or ISO.

13 “(f) NO ENVIRONMENTAL REQUIREMENTS.—The
14 Commission and each RTO and ISO may not impose envi-
15 ronmental requirements, adjust rates to account for State
16 environmental policies (including environmental leakage
17 adjustments), or mandate environmental performance
18 standards of any kind.

19 “(g) PROHIBITION ON CONFISCATING ENERGY.—

20 “(1) REQUIREMENT.—Each RTO and ISO
21 shall honor its contractual commitments to wheel
22 power outside its service area and may not divert
23 such power deliveries to serve its own load.

1 “(2) PENALTIES; DAMAGES.—If an RTO or
2 ISO diverts power from a utility to serve its own
3 load, the RTO or ISO—

4 “(A) shall be subject to penalties deter-
5 mined by the Commission; and

6 “(B) may be liable for damages pursuant
7 to a proceeding brought in a Federal district
8 court.

9 “(h) DEFINITIONS.—In this section:

10 “(1) BULK-POWER SYSTEM; RELIABILITY
11 STANDARD.—The terms ‘bulk-power system’ and ‘re-
12 liability standard’ have the meanings given such
13 terms in section 215(a).

14 “(2) DISPATCHABLE ON DEMAND CONTINUOUS
15 RESOURCE.—The term ‘dispatchable on demand con-
16 tinuous resource’ means an electricity generating re-
17 source—

18 “(A) that can generate electricity as need-
19 ed as directed by the operator and not be de-
20 pendent on the time of day or the weather;

21 “(B) that can maintain the requested gen-
22 eration capacity for a minimum of 72 hours
23 continuously; and

24 “(C) the power output of which can be ad-
25 justed according to the needs of the power grid.

1 “(3) DISPATCHABLE ON DEMAND SHORT-TERM
2 RESOURCE.—The term ‘dispatchable on demand
3 short-term resource’ means an electricity generating
4 resource—

5 “(A) that can generate electricity as need-
6 ed as directed by the operator and not be de-
7 pendent on the time of day or the weather;

8 “(B) that can be operational within three
9 hours or less of being called on to generate elec-
10 tricity;

11 “(C) that has the capability to continually
12 operate for a minimum of 72 hours; and

13 “(D) the power output of which can be ad-
14 justed according to the needs of the power grid.

15 “(4) ENVIRONMENTAL LEAKAGE.—The term
16 ‘environmental leakage’ means where one State or
17 region imposes certain environmental limits or goals
18 on electric generation and another State or region
19 does not and such differences allow a generating re-
20 source without such environmental restrictions or
21 goals to generate and sell power cheaper than a gen-
22 eration resource from another State or region.

23 “(5) EXTREME WEATHER.—The term ‘extreme
24 weather’—

1 “(A) means a weather event that is at the
2 extremes of the historical distribution; and

3 “(B) includes unexpected, unusual, severe,
4 or unseasonal weather.

5 “(6) FIRM.—The term ‘firm’ means the electric
6 generator has priority transportation rights to a fuel
7 supply. Storage batteries that have three days of
8 continuous discharge may be considered firm.

9 “(7) GROSS PEAK LOAD.—The term ‘gross peak
10 load’ means the total energy required to serve de-
11 mand at its highest level for each 15 minutes of
12 every day of the year.

13 “(8) INTERMITTENT RESOURCE.—The term
14 ‘intermittent resource’ means an electric generation
15 resource that depends on the weather or time of day
16 for its fuel source, such as wind or solar.

17 “(9) NET CAPACITY FACTOR.—The net capacity
18 factor of an electric generator is the ratio of its ac-
19 tual output over two consecutive calendar years, to
20 its potential output if it were possible for it to oper-
21 ate at full nameplate capacity during the same two
22 consecutive calendar years. To calculate the capacity
23 factor, take the total amount of energy the plant
24 produced during a period of time and divide by the

1 amount of energy the plant would have produced at
2 full capacity.

3 “(10) NET PEAK LOAD.—The term ‘net peak
4 load’ means the difference of—

5 “(A) gross peak load, minus

6 “(B) intermittent generation resources
7 used to serve load for each 15 minutes of each
8 day of the year.”.

9 **SEC. 3. COGENERATION AND SMALL, POWER PRODUCTION**
10 **UNDER THE PUBLIC UTILITY REGULATORY**
11 **POLICIES ACT OF 1978.**

12 (a) REPEAL.—Section 210 of the Public Utility Reg-
13 ulatory Policies Act of 1978 (16 U.S.C. 824a–3) is re-
14 pealed.

15 (b) EXISTING CONTRACTS.—The repeal of section
16 210 by subsection (a) shall not affect any contract or obli-
17 gation in effect before the date of enactment of this Act.

18 **SEC. 4. REBUTTABLE PRESUMPTION FOR CERTAIN CER-**
19 **TIFICATES ISSUED UNDER THE NATURAL GAS**
20 **ACT.**

21 Section 7(e) of the Natural Gas Act (15 U.S.C.
22 717f(e)) is amended by inserting the following at the end:
23 “When considering an application for a certificate of pub-
24 lic convenience and necessity under this subsection for a
25 facility that will serve in whole or in part an electric gen-

1 eration facility, it shall be a rebuttable presumption that
2 the certificate is in the public interest and is or will be
3 required by the present or future public convenience and
4 necessity.”.

○