

Rev
195

AMENDMENT TO H.R. 2454
OFFERED BY MR. INSLEE OF WASHINGTON AND
MS. MARKEY OF COLORADO

Page 164, strike line 10 and all that follows down through line 19 on page 170, insert the following and make the necessary conforming changes in the table of contents:

1 **SEC. 151. TRANSMISSION PLANNING AND SITING.**

2 (a) **IN GENERAL.**—Section 216 of the Federal Power
3 Act (16 U.S.C. 824p) is amended as follows:

4 (1) In subsection (b), in paragraph (5), by
5 striking “; and” and inserting a semicolon, in para-
6 graph (6) by striking the period and inserting “;
7 and” and by adding the following at the end thereof:

8 “(7) the facility is interstate in nature or is an
9 intrastate segment integral to a proposed interstate
10 facility;”.

11 (2) In subsection (k), by inserting at the end
12 the following: “Subsections (a), (b), (c), and (h) of
13 this section shall not apply in the Western inter-
14 connection.”.

15 (3) In subsections (d) and (e), by striking “sub-
16 section (b)” in each place and inserting “subsection

1 (b) or section 216B”, and by striking “permit” and
2 inserting “permit or certificate” in each place it ap-
3 pears.

4 (b) NEW SECTIONS.—The Federal Power Act (16
5 U.S.C. 824p) is amended by inserting the following new
6 sections after section 216:

7 **“SEC. 216A TRANSMISSION PLANNING.**

8 “(a) FEDERAL POLICY FOR TRANSMISSION PLAN-
9 NING.—

10 “(1) OBJECTIVES.—It is the policy of the
11 United States that regional electric grid planning
12 should facilitate the deployment of renewable and
13 other zero-carbon and low-carbon energy sources for
14 generating electricity to reduce greenhouse gas emis-
15 sions while ensuring reliability, reducing congestion,
16 ensuring cyber-security, minimizing environmental
17 harm, and providing for cost-effective electricity
18 services throughout the United States, in addition to
19 serving the objectives stated in section 217(b)(4).

20 “(2) OPTIONS.—In addition to the policy under
21 paragraph (1), it is the policy of the United States
22 that regional electric grid planning to meet these ob-
23 jectives should result from an open, inclusive and
24 transparent process, taking into account all signifi-
25 cant demand-side and supply-side options, including

1 energy efficiency, distributed generation, renewable
2 energy and zero-carbon electricity generation tech-
3 nologies, smart-grid technologies and practices, de-
4 mand response, electricity storage, voltage regulation
5 technologies, high capacity conductors with at least
6 25 percent greater efficiency than traditional ACSR
7 (aluminum stranded conductors steel reinforced)
8 conductors, superconductor technologies, under-
9 ground transmission technologies, and new conven-
10 tional electric transmission capacity and corridors.

11 “(b) PLANNING.—

12 “(1) PLANNING PRINCIPLES.—Not later than 1
13 year after the date of enactment of this section, the
14 Commission shall adopt, after notice and oppor-
15 tunity for comment, national electricity grid plan-
16 ning principles derived from the Federal policy es-
17 tablished under subsection (a) to be applied in ongo-
18 ing and future transmission planning that may im-
19 plicate interstate transmission of electricity.

20 “(2) REGIONAL PLANNING ENTITIES.—Not
21 later than 3 months after the date of adoption by
22 the Commission of national electricity grid planning
23 principles pursuant to paragraph (1), entities that
24 conduct or may conduct transmission planning pur-
25 suant to State, tribal, or Federal law or regulation,

1 including States, Indian tribes, entities designated
2 by States and Indian tribes, Federal Power Mar-
3 keting Administrations, transmission providers, op-
4 erators and owners, regional organizations, and elec-
5 tric utilities, and that are willing to incorporate the
6 national electricity grid planning principles adopted
7 by the Commission in their electric grid planning,
8 shall identify themselves and the regions for which
9 they propose to develop plans to the Commission.

10 “(3) COORDINATION OF REGIONAL PLANNING
11 ENTITIES.—The Commission shall encourage re-
12 gional planning entities described under paragraph
13 (2) to cooperate and coordinate across regions and
14 to harmonize regional electric grid planning with
15 planning in adjacent or overlapping jurisdictions to
16 the maximum extent feasible. The Commission shall
17 work with States, Indian tribes, Federal land man-
18 agement agencies, State energy, environment, nat-
19 ural resources, and land management agencies and
20 commissions, Federal power marketing administra-
21 tions, electric utilities, transmission providers, load-
22 serving entities, transmission operators, regional
23 transmission organizations, independent system op-
24 erators, and other organizations to resolve any con-
25 flict or competition among proposed planning enti-

1 ties in order to build consensus and promote the
2 Federal policy established under subsection (a). The
3 Commission shall seek to ensure that planning that
4 is consistent with the national electricity grid plan-
5 ning principles adopted pursuant to paragraph (1) is
6 conducted in all regions of the United States and
7 the territories, but in a manner that, to the extent
8 feasible, avoids uncoordinated planning by more
9 than one planning entity for the same area.

10 “(4) RELATION TO EXISTING PLANNING POL-
11 ICY.—In implementing the Federal policy established
12 under subsection (a), the Commission shall

13 “(A) incorporate and coordinate with any
14 ongoing planning efforts undertaken pursuant
15 to section 217 and Commission Order No. 890;

16 “(B) coordinate with the Secretary of En-
17 ergy in providing to the regional planning enti-
18 ties an annual summary of national energy pol-
19 icy priorities and goals;

20 “(C) coordinate with corridor designation
21 and planning functions carried out pursuant to
22 section 216 by the Secretary of Energy, who
23 shall provide financial support from available
24 funds to support the purposes of this section;
25 and

1 “(D) coordinate with the Secretaries of the
2 Interior and Agriculture and Indian tribes in
3 carrying out the Secretaries’ or tribal govern-
4 ments’ existing responsibilities for the planning
5 or siting of transmission facilities on Federal or
6 tribal lands, consistent with law, policy, and
7 regulations relating to the management of fed-
8 eral public lands .

9 “(5) ASSISTANCE.—

10 “(A) IN GENERAL.—The Commission shall
11 provide support to and may participate if in-
12 vited to do so in the regional grid planning
13 processes conducted by regional planning enti-
14 ties. The Secretary of Energy and the Commis-
15 sion may provide planning resources and assist-
16 ance as required or as requested by regional
17 planning entities, including system data, cost
18 information, system analysis, technical exper-
19 tise, modeling support, dispute resolution serv-
20 ices, and other assistance to regional planning
21 entities, as appropriate.

22 “(B) AUTHORIZATION.—There are author-
23 ized to be appropriated such sums as may be
24 necessary to carry out this paragraph.

1 “(6) CONFLICT RESOLUTION.—In the event
2 that regional grid plans conflict, the Commission
3 shall assist the regional planning entities in resolving
4 such conflicts in order to achieve the objectives of
5 the Federal policy established under subsection (a).

6 “(7) SUBMISSION OF PLANS.—The Commission
7 shall require regional planning entities to submit ini-
8 tial regional electric grid plans to the Commission
9 not later than 18 months after the date the Commis-
10 sion promulgates national electricity grid planning
11 principles pursuant to paragraph (1), with updates
12 to such plans not less than every 3 years thereafter.
13 The Commission shall review such plans for consist-
14 ency with the national grid planning principles and
15 may return a plan to one or more planning entities
16 for further consideration, along with the Commis-
17 sion’s own recommendations for resolution of any
18 conflict or for improvement.

19 “(8) INTEGRATION OF PLANS.—Regional elec-
20 tric grid plans should, in general, be developed from
21 sub-regional requirements and plans, including plan-
22 ning input reflecting individual utility service areas.
23 Regional plans may then in turn be combined into
24 larger regional plans, up to interconnection-wide and
25 national plans, as appropriate and necessary as de-

1 terminated by the Commission. In no case shall a
2 multi-regional plan impose inclusion of a facility on
3 a region that has submitted a valid plan that, after
4 efforts to resolve the conflict, does not include such
5 facility. To the extent practicable, all plans sub-
6 mitted to the Commission shall be public documents
7 and available on the Commission's Web site.

8 “(9) MULTI-REGIONAL MEETINGS.—As regional
9 grid plans are submitted to the Commission, the
10 Commission may convene multi-regional meetings to
11 discuss regional grid plan consistency and integra-
12 tion, including requirements for multi-regional
13 projects, and to resolve any conflicts that emerge
14 from such multi-regional projects. The Commission
15 shall provide its recommendations for eliminating
16 any inter-regional conflicts.

17 “(10) REPORT TO CONGRESS.—Not later than
18 3 years after the date of enactment of this section
19 and each 3 years thereafter, the Commission shall
20 provide a report to Congress containing the results
21 of the regional grid planning process, including sum-
22 maries of the adopted regional plans and the extent
23 to which the Federal policy objectives in subsection
24 (a) have been successfully achieved. The Commission
25 shall provide an electronic version of its report on its

1 website with links to all regional and sub-regional
2 plans taken into account. The Commission shall note
3 and provide its recommended resolution for any con-
4 flicts not resolved during the planning process. The
5 Commission shall make any recommendations to
6 Congress on the appropriate Federal role or support
7 required to address the needs of the electric grid, in-
8 cluding recommendations for addressing any needs
9 that are beyond the reach of existing State, tribal,
10 and Federal authority.

11 **“SEC. 216B. SITING AND CONSTRUCTION IN THE WESTERN**
12 **INTERCONNECTION.**

13 “(a) **APPLICABILITY.**—This section applies only to
14 States located in the Western Interconnection and does
15 not apply to States located in the Eastern Interconnection,
16 to the States of Alaska or Hawaii, or to ERCOT.

17 “(b) **CERTIFICATE OF PUBLIC CONVENIENCE AND**
18 **NECESSITY.**—The Commission may, after notice and op-
19 portunity for hearing, issue a certificate of public conven-
20 ience and necessity for the construction or modification
21 of a transmission facility if the Commission finds that—

22 “(1) the facility was identified and included in
23 one or more relevant and final regional or inter-
24 connection-wide electric grid plans submitted to the
25 Commission pursuant to subsection (b) of 216A;

1 “(2) any conflict among regional electric grid
2 plans concerning the need for the facility was re-
3 solved;

4 “(3) such relevant regional electric grid plans
5 are consistent with the national grid planning prin-
6 ciples adopted by the Commission pursuant to sub-
7 section (b);

8 “(4) the facility was identified as needed in sig-
9 nificant measure to meet demand for renewable en-
10 ergy in such plans;

11 “(5) the facility is a multistate facility;

12 “(6) the developer of such facility filed a com-
13 plete application seeking approval for the siting of
14 the facility with a state commission or other entity
15 that has authority to approve the siting of the facil-
16 ity;

17 “(7) a State commission or other entity that
18 has authority to approve the siting of the facility—

19 “(A) did not issue a decision on an appli-
20 cation seeking approval for the siting of the fa-
21 cility within 1 year after the date the applicant
22 submitted a completed application to the State;

23 “(B) denied a complete application seeking
24 approval for the siting of the facility; or

1 “(C) authorized the siting of the facility
2 subject to conditions that unreasonably inter-
3 fere with the development of the facility; and

4 “(8) the siting of the facility can be accom-
5 plished in a manner consistent with the Federal pol-
6 icy established in subsection (a) of section 216A and
7 the national grid planning principles adopted by the
8 Commission pursuant to subsection (b) of section
9 216A.

10 “(c) STATE RECOMMENDATIONS ON RESOURCE PRO-
11 TECTION.—In issuing a final certificate of public conven-
12 ience and necessity pursuant to subsection (b), the Com-
13 mission shall—

14 “(1) consider any siting constraints and mitiga-
15 tion measures based on habitat protection, health
16 and safety considerations, environmental consider-
17 ations, or cultural site protection identified by rel-
18 evant State or local authorities; and

19 “(2) incorporate those identified siting con-
20 straints or mitigation measures, including rec-
21 ommendations related to project routing, as condi-
22 tions in the final certificate of public convenience
23 and necessity, or if the Commission determines that
24 a recommended siting constraint or mitigation meas-
25 ure is infeasible, excessively costly, or inconsistent

1 with the Federal policy established in subsection (a)
2 of section 216A or the national grid planning prin-
3 ciples adopted by the Commission pursuant to sub-
4 section (b) of section 216A—

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

7 “(B) incorporate as conditions on the cer-
8 tificate such recommended siting constraints or
9 mitigation measures as are determined to be
10 appropriate by the Commission, based on con-
11 sultation by the Commission with State regu-
12 latory agencies, the Federal policy established
13 in subsection (a) of section 216A and the na-
14 tional grid planning principles adopted by the
15 Commission pursuant to subsection (b) of sec-
16 tion 216A, and the record before the Commis-
17 sion; and

18 “(C) if, after consultation, the Commission
19 does not adopt in whole or in part a rec-
20 ommendation of an agency, publish a finding
21 that the adoption of the recommendation is in-
22 feasible, not cost effective, or inconsistent with
23 this section or other applicable provisions of
24 law.

1 “(d) CERTIFICATE APPLICATIONS.—(1) An applica-
2 tion for a preliminary or final certificate of public conven-
3 ience and necessity under this subsection shall be made
4 in writing to the Commission.

5 “(2) The Commission shall issue rules specifying—

6 “(A) the form of the application;

7 “(B) the information to be contained in the ap-
8 plication; and

9 “(C) the manner of service of notice of the ap-
10 plication on interested persons.

11 “(e) COORDINATION OF FEDERAL AUTHORIZATIONS
12 FOR TRANSMISSION FACILITIES.—

13 “(1) In this subsection, the term ‘Federal au-
14 thorization’ shall have the same meaning and include
15 the same actions as in section 216(h).

16 “(2) The Federal Energy Regulatory Commis-
17 sion shall act as the lead agency for purposes of co-
18 ordinating all applicable Federal authorizations and
19 related environmental reviews of the facility, pro-
20 vided, however, that to the extent the facility is pro-
21 posed to be sited on Federal lands, the Department
22 of the Interior will assume such lead-agency duties
23 as agreed between the Commission and the Depart-
24 ment of Interior.

1 “(3) To the maximum extent practicable under
2 applicable Federal law, the Commission, and to the
3 extent agreed, the Secretary of Interior, shall coordi-
4 nate the Federal authorization and review process
5 under this subsection with any Indian tribes,
6 multistate entities, and State agencies that are re-
7 sponsible for conducting any separate permitting
8 and environmental reviews of the facility, to ensure
9 timely and efficient review and permit decisions.

10 “(4)(A) As head of the lead agency, the Chair-
11 man of the Commission, in consultation with the
12 Secretary of Interior and with those entities referred
13 to in paragraph (3) that are willing to coordinate
14 their own separate permitting and environmental re-
15 views with the Federal authorization and environ-
16 mental reviews, shall establish prompt and binding
17 intermediate milestones and ultimate deadlines for
18 the review of, and Federal authorization decisions
19 relating to, the proposed facility.

20 “(B) The Chairman of the Commission, or the
21 Secretary of Interior, as agreed under paragraph
22 (2), shall ensure that, once an application has been
23 submitted with such data as the lead agency con-
24 siders necessary, all permit decisions and related en-

1 vironmental reviews under all applicable Federal
2 laws shall be completed—

3 “(i) within 1 year; or

4 “(ii) if a requirement of another provision
5 of Federal law does not permit compliance with
6 clause (i), as soon thereafter as is practicable.

7 “(C) The Commission shall provide an expedi-
8 tious pre-application mechanism for prospective ap-
9 plicants to confer with the agencies involved to have
10 each such agency determine and communicate to the
11 prospective applicant not later than 60 days after
12 the prospective applicant submits a request for such
13 information concerning—

14 “(i) the likelihood of approval for a poten-
15 tial facility; and

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

18 “(5)(A) As lead agency head, the Chairman of
19 the Commission, in consultation with the affected
20 agencies, shall prepare a single environmental review
21 document, which shall be used as the basis for all
22 decisions on the proposed project under Federal law.

23 “(B) The Chairman of the Commission and the
24 heads of other agencies shall streamline the review
25 and permitting of transmission within corridors des-

1 ignated under section 503 of the Federal Land Pol-
2 icy and Management Act (43 U.S.C. 1763) by fully
3 taking into account prior analyses and decisions re-
4 lating to the corridors.

5 “(C) The document shall include consideration
6 by the relevant agencies of any applicable criteria or
7 other matters as required under applicable law.

8 “(6)(A) If any agency has denied a Federal au-
9 thorization required for a transmission facility, or
10 has failed to act by the deadline established by the
11 Commission pursuant to this section for deciding
12 whether to issue the authorization, the applicant or
13 any State in which the facility would be located may
14 file an appeal with the President, who shall, in con-
15 sultation with the affected agency, review the denial
16 or failure to take action on the pending application.

17 “(B) Based on the overall record and in con-
18 sultation with the affected agency, the President
19 may—

20 “(i) issue the necessary authorization with
21 any appropriate conditions; or

22 “(ii) deny the application.

23 “(C) The President shall issue a decision not
24 later than 90 days after the date of the filing of the
25 appeal.

1 “(D) In making a decision under this para-
2 graph, the President shall comply with applicable re-
3 quirements of Federal law, including any require-
4 ments of—

5 “(i) the National Forest Management Act
6 of 1976 (16 U.S.C. 472a et seq.);

7 “(ii) the Endangered Species Act of 1973
8 (16 U.S.C. 1531 et seq.);

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

11 “(iv) the National Environmental Policy
12 Act of 1969 (42 U.S.C. 4321 et seq.); and

13 “(v) the Federal Land Policy and Manage-
14 ment Act of 1976 (43 U.S.C. 1701 et seq.).

15 “(7)(A) Not later than 18 months after August
16 8, 2005, the Commission or, as requested, the Sec-
17 retary or Interior, shall issue any regulations nec-
18 essary to implement this subsection.

19 “(B)(i) Not later than 1 year after August 8,
20 2005, the Commission, the Secretary of Interior,
21 and the heads of all Federal agencies with authority
22 to issue Federal authorizations shall enter into a
23 memorandum of understanding to ensure the timely
24 and coordinated review and permitting of electricity
25 transmission facilities.

1 “(ii) Interested Indian tribes, multistate enti-
2 ties, and State agencies may enter the memorandum
3 of understanding.

4 “(C) The head of each Federal agency with au-
5 thority to issue a Federal authorization shall des-
6 ignate a senior official responsible for, and dedicate
7 sufficient other staff and resources to ensure, full
8 implementation of the regulations and memorandum
9 required under this paragraph.

10 “(8)(A) Each Federal land use authorization
11 for an electricity transmission facility shall be
12 issued—

13 “(i) for a duration, as determined by the
14 Secretary of Interior, commensurate with the
15 anticipated use of the facility; and

16 “(ii) with appropriate authority to manage
17 the right-of-way for reliability and environ-
18 mental protection.

19 “(B) On the expiration of the authorization (in-
20 cluding an authorization issued before August 8,
21 2005), the authorization shall be reviewed for re-
22 newal taking fully into account reliance on such elec-
23 tricity infrastructure, recognizing the importance of
24 the authorization for public health, safety, and eco-

1 nomic welfare and as a legitimate use of Federal
2 land.

3 “(9) In exercising the responsibilities under this
4 section, the Commission shall consult regularly
5 with—

6 “(A) electric reliability organizations (in-
7 cluding related regional entities) approved by
8 the Commission; and

9 “(B) Transmission Organizations approved
10 by the Commission.”.

