

119TH CONGRESS
1ST SESSION

S. _____

To amend the Federal Power Act to require the Federal Energy Regulatory Commission to review regulations that may affect the reliable operation of the bulk-power system, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Federal Power Act to require the Federal Energy Regulatory Commission to review regulations that may affect the reliable operation of the bulk-power system, 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 “Reliable Power Act”.

5 **SEC. 2. COMMISSION REVIEW AND COMMENT FOR COV-**

6 **ERED AGENCY ACTIONS.**

7 Section 215 of the Federal Power Act (16 U.S.C.

8 824o) is amended—

1 (1) in subsection (g)—

2 (A) by striking “The ERO” and inserting
3 the following:

4 “(1) IN GENERAL.—The ERO”; and

5 (B) by adding at the end the following:

6 “(2) ANNUAL LONG-TERM ASSESSMENT.—The
7 assessments under paragraph (1) shall include an
8 annual long-term assessment, which shall include—

9 “(A) an analysis of the ability of the bulk-
10 power system to supply sufficient electric en-
11 ergy to maintain an adequate level of reliability,
12 taking into account—

13 “(i) generation resource mix;

14 “(ii) transmission development; and

15 “(iii) electric energy demand trends;

16 “(B) an analysis of—

17 “(i) the risk of future electric energy
18 supply shortfalls under normal and ex-
19 treme weather conditions; and

20 “(ii) the risk of any such shortfalls
21 within each region of the bulk-power sys-
22 tem; and

23 “(C) a determination of whether additional
24 generation resources are necessary to supply
25 sufficient electric energy to maintain an ade-

1 quate level of reliability during the assessment
2 period.

3 “(3) NOTICE OF GENERATION INADEQUACY.—

4 In conducting a long-term assessment under para-
5 graph (2), if the ERO determines that the bulk-
6 power system is at risk of not having adequate gen-
7 eration resources to supply sufficient electric energy
8 to maintain an adequate level of reliability, the ERO
9 shall publicly notify the Commission that the bulk-
10 power system is in a state of generation inadequacy.

11 “(4) DATA COLLECTION.—To conduct a long-
12 term assessment under paragraph (2), the ERO may
13 collect information and data from users, owners, and
14 operators of the bulk-power system.”;

15 (2) by redesignating subsections (h) through (k)
16 as subsections (i) through (l), respectively; and

17 (3) by inserting after subsection (g) the fol-
18 lowing:

19 “(h) COMMISSION REVIEW AND COMMENT FOR COV-
20 ERED AGENCY ACTIONS.—

21 “(1) DEFINITIONS.—In this subsection:

22 “(A) COVERED AGENCY ACTION.—The
23 term ‘covered agency action’ means a regulation
24 that—

1 “(i) relates to, or otherwise directly
2 affects, any generation resource in the
3 bulk-power system; and

4 “(ii) on the date on which the applica-
5 ble Federal agency receives notice from the
6 Commission under paragraph (2)—

7 “(I) is under development to be
8 proposed; or

9 “(II) is otherwise under consider-
10 ation in a rulemaking proceeding.

11 “(B) FEDERAL AGENCY.—The term ‘Fed-
12 eral agency’ means an Executive department
13 (as defined in section 101 of title 5, United
14 States Code) or any other Executive agency the
15 head of which holds a Cabinet-level position.

16 “(2) NOTICE TO FEDERAL AGENCIES.—If the
17 ERO notifies the Commission under subsection
18 (g)(3) that the bulk-power system is in a state of
19 generation inadequacy, the Commission shall
20 promptly notify the Department of Energy, the En-
21 vironmental Protection Agency, and any other Fed-
22 eral agency the Commission determines appropriate
23 of that state of generation inadequacy.

24 “(3) SUBMISSION OF COVERED AGENCY AC-
25 TIONS TO THE COMMISSION.—

1 “(A) IN GENERAL.—Not later than the ap-
2 plicable date described in subparagraph (B), the
3 head of each Federal agency that receives a no-
4 tification under paragraph (2) shall submit to
5 the Commission for review and comment any
6 covered agency action of the Federal agency.

7 “(B) DATE DESCRIBED.—The date re-
8 ferred to in subparagraph (A) is—

9 “(i) the first date on which the appli-
10 cable covered agency action is provided to
11 the Office of Management and Budget or
12 any other Federal agency for review and
13 comment;

14 “(ii) if the applicable covered agency
15 action is not provided to the Office of
16 Management and Budget or any other
17 Federal agency for review and comment,
18 the date that is 90 days before the date on
19 which the covered agency action is pub-
20 lished in the Federal Register or otherwise
21 made available for public inspection or
22 comment; or

23 “(iii) if, as of the date on which the
24 Federal agency receives the applicable noti-
25 fication under paragraph (2), the covered

1 agency action has already been provided to
2 the Office of Management and Budget or
3 any other Federal agency for review and
4 comment, or has already been published in
5 the Federal Register or otherwise made
6 available for public inspection or comment,
7 the date that is 60 days after the date on
8 which the Federal agency received the noti-
9 fication.

10 “(4) COMMISSION COMMENTS.—The Commis-
11 sion, in consultation with the ERO and transmission
12 organizations, shall, by order, provide to the Federal
13 agency head that submitted to the Commission a
14 covered agency action under paragraph (3)—

15 “(A) comments on the covered agency ac-
16 tion, which may include an assessment of the
17 effect of the covered agency action on rates,
18 terms, and conditions for services pursuant to
19 the authority of the Commission under sections
20 201 and 206; and

21 “(B) if applicable, recommendations for
22 modifications to the covered agency action to
23 prevent a significant negative impact on the
24 ability of the bulk-power system to supply suffi-

1 cient electric energy to maintain an adequate
2 level of reliability.

3 “(5) AGENCY RESPONSE.—The head of a Fed-
4 eral agency may not finalize a covered agency action
5 that is submitted to the Commission under para-
6 graph (3) until—

7 “(A) the agency head responds in writing
8 to the Commission with an explanation of how
9 the agency head modified, or why the agency
10 head determined not to modify, the covered
11 agency action in response to any comments and
12 recommendations provided by the Commission
13 under paragraph (4); and

14 “(B) the Commission determines that the
15 covered agency action is not likely to have a sig-
16 nificant negative impact on the ability of the
17 bulk-power system to supply sufficient electric
18 energy to maintain an adequate level of reli-
19 ability.

20 “(6) PUBLIC AVAILABILITY OF COMMENTS AND
21 RESPONSES.—A Federal agency head shall include
22 any comments, recommendations, and responses re-
23 lating to the covered agency action under para-
24 graphs (4) and (5) in—

1 “(A) any submission of the covered agency
2 action to the Federal Register for publication;
3 and
4 “(B) any other place in which the covered
5 agency action is otherwise made available for
6 public inspection or comment.”.