

114TH CONGRESS
1ST SESSION

S. 2003

To facilitate the free market for distributed energy resources.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2015

Mr. KING introduced the following bill; which was read twice and referred to
the Committee on Energy and Natural Resources

A BILL

To facilitate the free market for distributed energy resources.

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 “Free Market Energy
5 Act”.

6 **SEC. 2. DEFINITION OF DISTRIBUTED ENERGY RESOURCE.**

7 Section 3 of the Federal Power Act (16 U.S.C. 796)
8 is amended by adding at the end the following:

9 “(30) DISTRIBUTED ENERGY RESOURCE.—The
10 term ‘distributed energy resource’ means a resource,
11 technology, or service interconnected to the elec-

1 tricity distribution system that generates, manages,
2 or reduces energy use.”.

3 **SEC. 3. GENERAL RIGHT TO NEUTRALITY OF INTER-**
4 **CONNECTION.**

5 The Public Utility Regulatory Policies Act of 1978
6 is amended by inserting after section 4 (16 U.S.C. 2603)
7 the following:

8 **“SEC. 5. GENERAL RIGHT TO NEUTRALITY OF INTER-**
9 **CONNECTION.**

10 “(a) IN GENERAL.—Distributed energy resources (as
11 defined in section 3 of the Federal Power Act (16 U.S.C.
12 796)) shall have a general right of interconnection under
13 this Act.

14 “(b) RATES AND FEES.—States shall ensure that
15 electric distribution grid operators adopt standards, condi-
16 tions, and requirements for rates and fees for interconnec-
17 tion of distributed energy resources under this Act, that—

18 “(1) are just and reasonable;

19 “(2) provide for the 2-way benefit for the dis-
20 tributed energy resource and the electricity grid; and

21 “(3) shall not be punitive.

22 “(c) TIMEFRAMES.—

23 “(1) IN GENERAL.—Timeframes for inter-
24 connection of distributed energy resources under this

1 Act shall be well-defined, expeditious, and not un-
 2 duly protracted.

3 “(2) DELAYS OR DENIAL.—An interconnection
 4 of distributed energy resources under this Act shall
 5 not be delayed or denied unless the electric utility
 6 demonstrates that the interconnection is unsafe or
 7 impracticable.”.

8 **SEC. 4. ENERGY AND RATE TREATMENTS FOR DISTRIB-**
 9 **UTED ENERGY RESOURCES.**

10 Section 111(d) of the Public Utility Regulatory Poli-
 11 cies Act of 1978 (16 U.S.C. 2621(d)) is amended by add-
 12 ing at the end the following:

13 “(20) DISTRIBUTED ENERGY RESOURCES.—

14 “(A) IN GENERAL.—If a State regulatory
 15 authority considers, through a rate proceeding
 16 or another mechanism (such as consideration of
 17 fixed or minimum charges), modifying the
 18 treatment of net energy metering customers,
 19 the State regulatory authority shall consider re-
 20 quiring that distributed energy resources (as
 21 defined in section 3 of the Federal Power Act
 22 (16 U.S.C. 796)) be eligible to receive just and
 23 reasonable energy and rate treatment using dy-
 24 namic pricing, which may account for locational
 25 benefit, to be provided on an unbundled basis,

1 after accounting for the 2-way valuation of dy-
2 namic rates, for services provided to or provided
3 by the grid, including the considerations with
4 respect to the use of dynamic pricing described
5 in subparagraph (B).

6 “(B) CONSIDERATIONS.—The consider-
7 ations for the use of dynamic pricing referred
8 to in subparagraph (A) include—

9 “(i)(I) pricing for energy sold to an
10 electric utility; and

11 “(II) pricing for energy purchased
12 from an electric utility;

13 “(ii) capacity;

14 “(iii) the provision of ancillary serv-
15 ices;

16 “(iv) the societal value of distributed
17 energy resources;

18 “(v) transmission and distribution
19 losses; and

20 “(vi) any other benefits that the State
21 regulatory authority considers to be appro-
22 priate.”.

1 **SEC. 5. CONSIDERATION OF NONTRANSMISSION ALTER-**
 2 **NATIVES.**

3 Section 111(d) of the Public Utility Regulatory Poli-
 4 cies Act of 1978 (16 U.S.C. 2621(d)) (as amended by sec-
 5 tion 4) is amended by adding at the end the following:

6 “(21) NONTRANSMISSION ALTERNATIVES.—

7 “(A) IN GENERAL.—Each State regulatory
 8 authority or applicable Regional Transmission
 9 Organization or Independent System Operator
 10 shall consider nontransmission alternatives in
 11 instances in which an entity proposes trans-
 12 mission projects seeking cost-of-service rate re-
 13 covery.

14 “(B) COST.—To reduce the cost to the
 15 ratepayer of a potential transmission upgrade, a
 16 nontransmission alternative considered under
 17 subparagraph (A), the cost of the nontrans-
 18 mission alternative shall be recovered from the
 19 ratebase or regional recovery mechanism in the
 20 same manner as the transmission upgrade
 21 would have been.”.

22 **SEC. 6. PRIOR STATE ACTIONS.**

23 (a) IN GENERAL.—Section 112 of the Public Utility
 24 Regulatory Policies Act of 1978 (16 U.S.C. 2622) is
 25 amended by adding at the end the following:

1 “(g) PRIOR STATE ACTIONS.—Subsections (b) and
2 (c) shall not apply to a standard established under para-
3 graphs (20) and (21) of section 111(d) in the case of any
4 electric utility in a State if, before the date of enactment
5 of this subsection—

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

8 “(2) the State regulatory authority for the
9 State, or the relevant nonregulated electric utility,
10 has conducted a proceeding to consider implementa-
11 tion of the standard (or a comparable standard) for
12 the electric utility; or

13 “(3) the State legislature has voted on the im-
14 plementation of the standard (or a comparable
15 standard) for the electric utility.”.

16 (b) CROSS-REFERENCE.—Section 124 of the Public
17 Utility Regulatory Policies Act of 1978 (16 U.S.C. 2634)
18 is amended by adding at the end the following: “In the
19 case of each standard established under paragraphs (20)
20 and (21) of section 111(d), the reference contained in this
21 subsection to the date of enactment of this Act shall be
22 deemed to be a reference to the date of enactment of those
23 paragraphs.”.

1 **SEC. 7. EFFECT.**

2 Nothing in this Act (or an amendment made by this
3 Act) shall apply to distributed energy resource contracts
4 in effect on the date of enactment of this Act.

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