

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—

10 “(I) a voltage of 345 kilovolts alter-
11 nating current; or

12 “(II) in the case of a very high cur-
13 rent conductor or superconducting cable, a
14 power equivalent to the power of a conven-
15 tional transmission cable operating at 345
16 kilovolts alternating current;

17 “(ii) operates at or above—

18 “(I) a voltage of 300 kilovolts direct
19 current; or

20 “(II) in the case of a very high cur-
21 rent conductor or superconducting cable, a
22 power equivalent to the power of a conven-
23 tional transmission cable operating at 300
24 kilovolts direct current; or

1 “(iii) is a renewable feeder line that trans-
2 mits electricity directly to a transmission facil-
3 ity that operates at or above a voltage of 345
4 kilovolts alternating current or 300 kilovolts di-
5 rect current; and

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

8 “(2) INDIAN TRIBE.—The term ‘Indian tribe’
9 means any Indian tribe, band, nation, or other orga-
10 nized group or community, including any Alaska Na-
11 tive village or regional or village corporation (as de-
12 fined in or established pursuant to the Alaska Na-
13 tive Claims Settlement Act (43 U.S.C. 1601 et
14 seq.)), which is recognized as eligible for the special
15 programs and services provided by the United States
16 to Indians because of their status as Indians.

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

22 “(4) LOCATION-CONSTRAINED RESOURCE.—

23 “(A) IN GENERAL.—The term ‘location-
24 constrained resource’ means a low-carbon re-
25 source used to produce electricity that is geo-

1 graphically constrained such that the resource
2 cannot be relocated to an existing transmission
3 line.

4 “(B) INCLUSIONS.—The term ‘location-
5 constrained resource’ includes the following
6 types of resources described in subparagraph
7 (A):

8 “(i) Renewable energy, including off-
9 shore resources.

10 “(ii) A fossil fuel electricity plant
11 equipped with carbon capture technology
12 that is located at a site that is appropriate
13 for carbon storage or beneficial reuse.

14 “(5) RENEWABLE ENERGY.—The term ‘renew-
15 able energy’ means electric energy generated from—

16 “(A) solar energy;

17 “(B) wind energy;

18 “(C) marine and hydrokinetic renewable
19 energy;

20 “(D) geothermal energy;

21 “(E) hydropower;

22 “(F) biomass; or

23 “(G) landfill gas.

1 “(6) RENEWABLE FEEDER LINE.—The term
2 ‘renewable feeder line’ means a transmission line
3 that—

4 “(A) operates at a voltage of 100 kilovolts
5 or greater; and

6 “(B) is identified in the applicable Inter-
7 connection-wide transmission plan or by the
8 Commission as a facility that is to be developed
9 to facilitate collection of electric energy pro-
10 duced by renewable energy.

11 “(7) SECRETARY.—The term ‘Secretary’ means
12 the Secretary of Energy.

13 “(c) PLANS FOR NATIONAL INTERSTATE TRANS-
14 MISSION SYSTEM.—

15 “(1) IN GENERAL.—The Commission shall co-
16 ordinate regional planning to ensure that regional
17 plans are integrated into an Interconnection-wide
18 transmission plan with respect to high-priority na-
19 tional transmission projects, that achieves the policy
20 established under subsection (a).

21 “(2) PLANNING PRINCIPLES.—

22 “(A) IN GENERAL.—Not later than 180
23 days after the date of enactment of the
24 _____ Act of 2009, the Commission shall
25 issue, by rule, after notice and opportunity for

1 comment, national electricity grid planning
2 principles pursuant to the policy established
3 under subsection (a).

4 “(B) CONTENT.—The principles shall—

5 “(i) address how the utilities should
6 fully incorporate consideration of the need
7 for high-priority national transmission
8 projects into planning efforts;

9 “(ii) address how the utilities should
10 coordinate with each other, States, Indian
11 tribes, and other planning efforts in the
12 applicable Interconnection to effectively de-
13 velop an Interconnection-wide analysis to
14 identify needed additions or modifications
15 to high-priority national transmission
16 projects, with particular attention to iden-
17 tifying needs that can be most efficiently
18 and effectively addressed with high-priority
19 national transmission projects that cross
20 multiple utilities, Regional Transmission
21 Organizations, or Independent System Op-
22 erators; and

23 “(iii) include mechanisms for solie-
24 iting input from the Secretary, Federal
25 transmitting utilities, the Secretary of the

1 Interior, States, Indian tribes, electric reli-
2 ability organizations, regional entities, enti-
3 ties described in section 201(f), generators,
4 load-serving entities, other interested par-
5 ties, and the public.

6 “(C) FACTORS.—Plans for the develop-
7 ment and improvement of high-priority national
8 transmission projects into a national high-ca-
9 pacity transmission grid shall take into consid-
10 eration—

11 “(i) the location of load centers;

12 “(ii) the location of generation and
13 potential generation development, including
14 location-constrained resources;

15 “(iii) existing and potential demand
16 side management (including energy effi-
17 ciency and demand response), energy stor-
18 age, distributed generation resources, and
19 smart grid investments;

20 “(iv) the plans of Regional Trans-
21 mission Organizations, Independent Sys-
22 tem Operators, State authorities, Indian
23 tribes, transmission owners, load-serving
24 entities, and others in the region;

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

3 “(vi) costs to consumers of high pri-
4 ority national transmission projects, in-
5 cluding considering the cost of reasonable
6 alternatives.

7 “(3) SUBMISSION OF PLANS.—

8 “(A) IN GENERAL.—

9 “(i) IN GENERAL.—One or more pub-
10 lic utilities, transmitting utilities, Regional
11 Transmission Organizations, Independent
12 System Operators, regional entities (as de-
13 fined in section 215(a)), or other
14 multistate organizations or entities (includ-
15 ing entities described in section 201(f))
16 may develop a regional plan relating to 1
17 or more high-priority national transmission
18 projects that is consistent with the plan-
19 ning principles established by the Commis-
20 sion.

21 “(ii) OTHER PLANS.—

22 “(I) IN GENERAL.—Any public
23 utility or transmitting utility that does
24 not participate in 1 of the regional
25 plans developed under clause (i) shall

1 develop its own plan relating to any
2 high priority national transmission
3 project planned for the system of the
4 utility.

5 “(II) PLANNING PRINCIPLES.—

6 The plan shall be consistent with the
7 planning principles established by the
8 Commission.

9 “(iii) TIMING.—Any plan developed
10 under clause (i) or (ii) shall be submitted
11 to the Commission—

12 “(I) as soon as practicable, but
13 not later than 2 years, after the date
14 of enactment of the _____ Act of
15 2009; and

16 “(II) periodically thereafter as
17 prescribed by the Commission.

18 “(B) COORDINATION.—

19 “(i) JOINT SUBMISSIONS.—The re-
20 quirements of subparagraph (A) may be
21 satisfied by a joint submission.

22 “(ii) SINGLE INTERCONNECTION-WIDE
23 PLAN.—The Commission shall encourage
24 coordination that would permit submission
25 of a single Interconnection-wide plan for

1 high priority national transmission
2 projects.

3 “(C) MODIFICATIONS.—The Commission
4 may require modification of a submitted plan to
5 the extent that the Commission determines that
6 the modification is necessary—

7 “(i) to reconcile inconsistencies be-
8 tween plans submitted; or

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

11 “(4) APPLICABILITY.—The transmission plan-
12 ning principles and requirements of this subsection
13 shall apply to each transmission owner and trans-
14 mission planning entity in the United States portion
15 of the Eastern and Western Interconnections, in-
16 cluding an entity described in section 201(f).

17 “(d) SITING.—

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

22 “(2) DESIGNATION OF ELIGIBILITY.—The Com-
23 mission may grant an applicant that submits an ap-
24 plication for a proposed project a designation of eli-
25 gibility for consideration under this subsection if the

1 Commission finds that the proposed project is a
2 high-priority national transmission project.

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

4 “(A) IN GENERAL.—No developer of a
5 high-priority national transmission project may
6 seek a certificate for construction under sub-
7 section (e) unless the developer first seeks au-
8 thorization to construct the high-priority na-
9 tional transmission project under applicable
10 State law concerning authorization and routing
11 of transmission facilities.

12 “(B) FEDERAL AUTHORITY.—The Com-
13 mission may authorize, in accordance with sub-
14 section (e), construction of a high-priority na-
15 tional transmission project that the Commission
16 finds to be in the public interest and in accord-
17 ance with this section if a State—

18 “(i) fails to approve construction and
19 authorize routing of a high-priority na-
20 tional transmission project not later than 1
21 year after the date the applicant submits a
22 completed application for authorization to
23 the State;

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

1 “(iii) authorizes the high-priority na-
2 tional transmission project subject to con-
3 ditions that unreasonably interfere with
4 the development of a high-priority national
5 transmission project contrary to the pur-
6 poses of this section.

7 “(e) CONSTRUCTION.—

8 “(1) APPLICATION FOR CERTIFICATE.—

9 “(A) IN GENERAL.—An applicant for a
10 high-priority national transmission project may
11 apply to the Commission for a certificate of
12 public convenience and necessity with respect to
13 construction of the high-priority national trans-
14 mission project within a State affected by the
15 high-priority national transmission project if
16 the State—

17 “(i) fails to authorize construction of
18 the high-priority national transmission
19 project under State law not later than 1
20 year after the date the developer submits a
21 completed application for authorization to
22 the State;

23 “(ii) rejects the application for the
24 high-priority national transmission project;
25 or

1 “(iii) authorizes the high-priority na-
2 tional transmission project subject to con-
3 ditions that unreasonably interfere with
4 the development of a high-priority national
5 transmission project contrary to the pur-
6 poses of this section.

7 “(B) FORM.—The application for a certifi-
8 cate shall be made in writing in such form and
9 containing such information as the Commission
10 may by regulation require.

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

13 “(i) shall provide notice to interested
14 persons and opportunity for hearing; and

15 “(ii) may approve (with or without
16 conditions) or disapprove the application,
17 in accordance with paragraph (2).

18 “(2) GRANT OF CERTIFICATE.—

19 “(A) IN GENERAL.—A certificate shall be
20 issued to a qualified applicant for a certificate
21 authorizing the whole or partial operation, con-
22 struction, acquisition, or modification covered
23 by the application, only if the Commission de-
24 termines that—

1 “(i) the applicant is able and will-
2 ing—

3 “(I) to do the acts and to per-
4 form the service proposed; and

5 “(II) to comply with this Act (in-
6 cluding regulations);

7 “(ii) the applicant has—

8 “(I) completed a detailed study
9 on alternatives to the high-priority na-
10 tional transmission project, based on
11 the factors described in subsection
12 (c)(2)(C)(iii); and

13 “(II) determined that pursuing
14 any studied alternative does not pro-
15 vide a more expedient means to im-
16 prove electricity system reliability, re-
17 duce congestion, or lower costs for
18 end-users; and

19 “(iii) the proposed operation, con-
20 struction, acquisition, or modification, to
21 the extent authorized by the certificate, is
22 or will be required by the present or future
23 public convenience and necessity.

24 “(B) TERMS AND CONDITIONS.—The Com-
25 mission shall have the power to attach to the

1 issuance of a certificate under this paragraph
2 and to the exercise of the rights granted under
3 the certificate such reasonable terms and condi-
4 tions as the public convenience and necessity
5 may require.

6 “(C) USE OF STATE WORK.—If 1 or more
7 States reject or fail to act on a high-priority na-
8 tional transmission project and the Commission
9 has siting authority for the high-priority na-
10 tional transmission project under this section,
11 the Commission shall give due weight to—

12 “(i) the environmental record and re-
13 sults of the siting process of a State that
14 did complete the siting process of the State
15 under this section; and

16 “(ii) the information that had been
17 submitted by an applicant to the State
18 under this section.

19 “(D) EVALUATION OF ABILITIES OF APPLI-
20 CANT.—

21 “(i) IN GENERAL.—In evaluating the
22 ability of an applicant described in sub-
23 paragraph (A)(i), the Commission shall
24 consider whether the financial and tech-
25 nical capabilities of the applicant are ade-

1 quate to support construction and oper-
2 ation of the high-priority national trans-
3 mission project proposed in the application.

4 “(ii) JOINT OWNERSHIP PROJECTS.—
5 In evaluating applications under paragraph
6 (1), the Commission shall consider benefits
7 from the greater diversification of financial
8 risk inherent in the applications involving
9 joint ownership projects by multiple load-
10 serving entities.

11 “(E) PUBLIC CONVENIENCE AND NECES-
12 SITY.—In making a determination with respect
13 to public convenience and necessity described in
14 subparagraph (A)(ii), the Commission shall—

15 “(i) consider whether the facilities
16 covered by an application are included in
17 an Interconnection-wide transmission grid
18 plan for a high-priority national trans-
19 mission project developed pursuant to sub-
20 section (c); and

21 “(ii) determine whether the facilities
22 covered by the application are in the public
23 interest.

24 “(3) RIGHT OF EMINENT DOMAIN.—

1 “(A) IN GENERAL.—If any holder of a cer-
2 tificate issued under paragraph (2) cannot ac-
3 quire by contract, or is unable to agree with the
4 owner of property on the compensation to be
5 paid for, the necessary right-of-way to con-
6 struct, operate, and maintain the high-priority
7 national transmission project to which the cer-
8 tificate relates, and the necessary land or other
9 property necessary to the proper operation of
10 the high-priority national transmission project,
11 the holder may acquire the right-of-way by the
12 exercise of the right of eminent domain in—

13 “(i) the United States district court
14 for the district in which the property is lo-
15 cated; or

16 “(ii) a State court.

17 “(B) PRACTICE AND PROCEDURE.—The
18 practice and procedure for any action or pro-
19 ceeding described in subparagraph (A) in a
20 United States district court shall conform, to
21 the maximum extent practicable, to the practice
22 and procedure for similar actions or pro-
23 ceedings in the courts of the State in which the
24 property is located.

1 “(4) STATE AND TRIBAL RECOMMENDA-
2 TIONS.—In granting a certificate under paragraph
3 (2), the Commission shall—

4 “(A) permit State regulatory agencies and
5 affected Indian tribes to recommend mitigation
6 measures, based on habitat protection, environ-
7 mental considerations, or cultural site protec-
8 tion; and

9 “(B)(i) incorporate those identified mitiga-
10 tion measures as conditions on the certificate;
11 or

12 “(ii) if the Commission determines that a
13 recommended mitigation measure is incon-
14 sistent with the purposes of this section, infea-
15 sible, or not cost-effective—

16 “(I) consult with State regulatory
17 agencies and affected Indian tribes to seek
18 to resolve the issue;

19 “(II) incorporate as conditions on the
20 certificate such recommended mitigation
21 measures as are determined to be appro-
22 priate by the Commission, based on con-
23 sultation by the Commission with State
24 regulatory agencies and affected Indian

1 tribes, the purposes of this section, and the
2 record before the Commission; and

3 “(III) if, after consultation, the Com-
4 mission does not adopt in whole or in part
5 a recommendation of an agency or affected
6 Indian tribe, publish a statement of a find-
7 ing that the adoption of the recommenda-
8 tion is infeasible, not cost-effective, or in-
9 consistent with this section or other appli-
10 cable provisions of law.

11 “(5) STATE OR LOCAL AUTHORIZATIONS.—An
12 applicant receiving a certificate under this sub-
13 section with respect to construction or modification
14 of a high-priority national transmission project in a
15 State shall not require a separate siting authoriza-
16 tion from the State or any local authority within the
17 State.

18 “(f) COORDINATION OF FEDERAL AUTHORIZATIONS
19 FOR TRANSMISSION FACILITIES.—

20 “(1) DEFINITION OF FEDERAL AUTHORIZA-
21 TION.—In this subsection, the term ‘Federal author-
22 ization’ means any authorization required under
23 Federal law in order to site a transmission facility
24 on Federal land, including such permits, special use
25 authorizations, certifications, opinions, or other ap-

1 provals as may be required under Federal law in
2 order to site a transmission facility.

3 “(2) LEAD AGENCY.—If a Federal authoriza-
4 tion for a high-priority national transmission project
5 involves land under the jurisdiction of the Depart-
6 ment of the Interior and any other Federal agency,
7 the Secretary of the Interior shall act as the lead
8 agency for purposes of coordinating all applicable
9 Federal authorizations and related environmental re-
10 views.

11 “(3) COORDINATION.—To the maximum extent
12 practicable under applicable Federal law, the Sec-
13 retary of the Interior shall coordinate the Federal
14 authorization and review process under this sub-
15 section with the Commission, and with any Indian
16 tribes, multistate entities, and State agencies that
17 are responsible for conducting any separate permit-
18 ting and environmental reviews of the facility, to en-
19 sure timely and efficient review and permit deci-
20 sions.

21 “(4) MILESTONES AND DEADLINES.—

22 “(A) IN GENERAL.—As the lead agency,
23 the Secretary of the Interior, in consultation
24 with the Commission and any other agency re-
25 sponsible for Federal authorizations and, as ap-

1 appropriate, with Indian tribes, multistate enti-
2 ties, and State agencies that are willing to co-
3 ordinate their own separate permitting and en-
4 vironmental reviews with the Federal authoriza-
5 tion and environmental reviews, shall establish
6 prompt and binding intermediate milestones
7 and ultimate deadlines for the review of, and
8 Federal authorization decisions relating to, the
9 proposed high-priority national transmission
10 project.

11 “(B) DEADLINE.—The Secretary of the
12 Interior shall ensure that, once an application
13 has been submitted with such data as the Com-
14 mission and the Secretaries with jurisdiction
15 over the affected land consider necessary, all
16 permit decisions and related environmental re-
17 views under all applicable Federal laws shall be
18 completed not later than 1 year after the date
19 of submission.

20 “(C) PREAPPLICATION INFORMATION.—
21 The Secretary of the Interior, in consultation
22 with the Commission, shall provide an expedi-
23 tious preapplication mechanism for prospective
24 applicants to confer with the agencies involved
25 to have each such agency determine and com-

1 municate to the prospective applicant not later
2 than 60 days after the prospective applicant
3 submits a request for such information con-
4 cerning—

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

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

9 “(5) ENVIRONMENTAL REVIEW DOCUMENT.—

10 “(A) IN GENERAL.—As lead agency, the
11 Secretary of the Interior, in consultation with
12 the Commission and any affected agency, shall
13 prepare a single environmental review docu-
14 ment, which shall be used as the basis for all
15 decisions on the proposed high-priority national
16 transmission project under Federal law.

17 “(B) STREAMLINING.—The Secretary of
18 the Interior and the Secretary of Agriculture, in
19 consultation with the Commission, shall stream-
20 line the review and permitting of transmission
21 within corridors designated under section 503
22 of the Federal Land Policy and Management
23 Act of 1976 (43 U.S.C. 1763) or section 368
24 of the Energy Policy Act of 2005 (42 U.S.C.

1 15926) by fully taking into account prior anal-
2 yses and decisions relating to the corridors.

3 “(C) COMMENTS.—If the high-priority na-
4 tional transmission project includes Federal
5 land that is not under the jurisdiction of the
6 Department of the Interior, the document shall
7 include comments made by the Secretary with
8 jurisdiction over the affected land on matters
9 necessary for the protection of the land or re-
10 quired under applicable law.

11 “(6) ISSUANCE OR DENIAL OF AUTHORIZATION
12 BY PRESIDENT.—

13 “(A) IN GENERAL.—Subject to paragraph
14 (7), if any agency has denied a Federal author-
15 ization required for a transmission facility with-
16 in an energy right-of-way corridor on Federal
17 land designated pursuant to section 368 of the
18 Energy Policy Act of 2005 (42 U.S.C. 15926),
19 or has failed to act by the deadline established
20 by the Secretary of the Interior pursuant to
21 this section for deciding whether to issue the
22 authorization, the applicant or any State in
23 which the facility would be located may file an
24 appeal with the President, who shall, in con-
25 sultation with the affected agency, review the

1 denial or failure to take action on the pending
2 application.

3 “(B) OPTIONS.—Based on the overall
4 record and in consultation with the affected
5 agency, the President may—

6 “(i) issue the necessary authorization
7 with any appropriate conditions; or

8 “(ii) deny the application.

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

12 “(D) FEDERAL REQUIREMENTS.—In mak-
13 ing a decision under this paragraph, the Presi-
14 dent shall comply with applicable requirements
15 of Federal law, including any requirements of—

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

18 “(ii) the Endangered Species Act of
19 1973 (16 U.S.C. 1531 et seq.);

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

22 “(iv) the National Environmental Pol-
23 icy Act of 1969 (42 U.S.C. 4321 et seq.);
24 and

1 “(v) the Federal Land Policy and
2 Management Act of 1976 (43 U.S.C. 1701
3 et seq.).

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

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

7 “(B) a unit of the National Wildlife Ref-
8 uge System;

9 “(C) a component of the National Wild
10 and Scenic Rivers System;

11 “(D) a component of the National Trails
12 System;

13 “(E) a component of the National Wilder-
14 ness Preservation System;

15 “(F) a National Monument;

16 “(G) any part of the National Landscape
17 Conservation System;

18 “(H) a National Preserve;

19 “(I) a National Scenic Area; or

20 “(J) a National Recreation Area.

21 “(8) ENERGY RIGHT-OF-WAY CORRIDORS ON
22 FEDERAL LAND.—

23 “(A) IN GENERAL.—In carrying out this
24 subsection, the Secretary with jurisdiction over
25 the land shall, to the maximum extent prac-

1 ticable, use the energy right-of-way corridors
2 designated in accordance with section 368 of
3 the Energy Policy Act of 2005 (42 U.S.C.
4 15926).

5 “(B) ADDITIONAL CORRIDORS.—If the
6 Secretary is unable to use an energy right-of-
7 way corridor described in subparagraph (A), the
8 Secretary shall establish an additional corridor
9 in accordance with section 368(c) of the Energy
10 Policy Act of 2005 (42 U.S.C. 15926(c)).

11 “(9) DURATION.—

12 “(A) IN GENERAL.—Each Federal land
13 use authorization for an electricity transmission
14 facility shall be issued—

15 “(i) for a duration, as determined by
16 the Secretary with jurisdiction over the
17 land, commensurate with the anticipated
18 use of the facility;

19 “(ii) with appropriate authority to
20 manage the right-of-way for reliability and
21 environmental protection; and

22 “(iii) consistent with the Federal
23 Land Policy and Management Act of 1976
24 (43 U.S.C. 1701 et seq.) and other appli-
25 cable law.

1 “(B) RENEWAL.—On the expiration of the
2 authorization (including an authorization issued
3 before the date of enactment of the _____
4 Act of 2009), the authorization shall be re-
5 viewed for renewal—

6 “(i) taking fully into account reliance
7 on the electricity infrastructure; and

8 “(ii) recognizing the importance of the
9 authorization for public health, safety, and
10 economic welfare and as a legitimate use of
11 Federal land.

12 “(10) CONSULTATION.—In exercising the re-
13 sponsibilities under this section, the Secretary of the
14 Interior and the Commission shall consult regularly
15 with—

16 “(A) electric reliability organizations (in-
17 cluding related regional entities) approved by
18 the Commission;

19 “(B) Transmission Organizations approved
20 by the Commission; and

21 “(C) transmission owners and users and
22 other interested parties.

23 “(11) INDIAN LAND.—

1 “(A) DEFINITION OF INDIAN LAND.—In
2 this paragraph, the term ‘Indian land’ means
3 land—

4 “(i) title to which is held by the
5 United States in trust for an Indian tribe
6 or individual; or

7 “(ii) that is held by an Indian tribe or
8 individual subject to a restriction by the
9 United States against alienation or encum-
10 brance.

11 “(B) RIGHTS-OF-WAY.—In the case of a
12 right-of way over Indian land, a certificate hold-
13 er under this section shall comply with the re-
14 quirements of Federal law for obtaining rights-
15 of-way over Indian land.

16 “(12) IMPLEMENTATION.—

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

22 “(B) FEDERAL STAFF AND RESOURCES.—
23 The head of each Federal agency with authority
24 to issue a Federal authorization shall designate
25 a senior official responsible for, and dedicate

1 sufficient other staff and resources to ensure,
2 full implementation of the regulations and
3 memorandum required under this paragraph.

4 “(g) EVALUATION AND RECOMMENDATIONS.—The
5 Commission shall—

6 “(1) periodically evaluate whether high-priority
7 national transmission projects are being constructed
8 in accordance with the Interconnection-wide trans-
9 mission grid plan for high-priority national trans-
10 mission projects for both the Western and Eastern
11 Interconnection areas;

12 “(2) take any necessary actions, pursuant to
13 applicable law, to address any identified obstacles to
14 investment, siting, and construction of high-priority
15 national transmission projects identified as needed
16 under an Interconnection-wide plan; and

17 “(3) not later than 2 years after the date of en-
18 actment of the _____ Act of 2009, submit to
19 Congress recommendations for any further actions
20 or authority needed to ensure the effective and time-
21 ly development of—

22 “(A) high-priority national transmission
23 projects; and

1 “(B) transmission projects to access re-
2 gional and offshore renewable energy genera-
3 tion.

4 “(h) REPORT OF SECRETARY.—Not later than 2
5 years after the date of enactment of the _____ Act
6 of 2009, the Secretary shall submit to Congress rec-
7 ommendations for any further actions or authority needed
8 to ensure the effective and timely development of—

9 “(1) demand response;

10 “(2) energy storage;

11 “(3) distributed generation;

12 “(4) energy efficiency; and

13 “(5) other areas necessary to carry out the pol-
14 icy established under subsection (a).

15 “(i) COST ALLOCATION.—

16 “(1) IN GENERAL.—Not later than 270 days
17 after the date of enactment of the _____ Act of
18 2009, the Commission—

19 “(A) shall establish by rule an appropriate
20 methodology for allocation of the costs of high-
21 priority national transmission projects, subject
22 to the requirement that any cost allocation
23 methodology, and any rates affected by the cost
24 allocation methodology, shall be just, reason-

1 able, and not unduly discriminatory or pref-
2 erential;

3 “(B) may permit allocation of costs for
4 high-priority national transmission projects to
5 load-serving entities within all or a part of a re-
6 gion, except that costs shall not be allocated to
7 a region, or subregion, unless the costs are rea-
8 sonably proportionate to measurable economic
9 and reliability benefits;

10 “(C) may permit allocation of costs to gen-
11 erators of electricity connected by a high-pri-
12 ority national transmission project; and

13 “(D) shall provide for due deference to
14 cost allocation proposals supported by broad
15 agreement among affected States.

16 “(2) MECHANISM FOR COLLECTION OF
17 COSTS.—The Commission shall adopt such rules and
18 require inclusion of such provisions in transmission
19 tariffs as are required to provide for—

20 “(A) the efficient collection of allocated
21 costs for development and operation of high-pri-
22 ority national transmission projects; and

23 “(B) the distribution of those revenues to
24 owners of the high-priority national trans-
25 mission projects.

1 “(j) RELATIONSHIP TO OTHER LAWS.—

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

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

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

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

12 “(2) STATE LAW.—Nothing in this section pre-
13 cludes any person from constructing or modifying
14 any transmission facility in accordance with State
15 law.

16 “(k) TRANSMISSION RIGHTS TO SUPPORT NEW GEN-
17 ERATION DEVELOPMENT.—Subject to section 217(b)(4),
18 it is the policy of the United States that long-term trans-
19 mission rights of firmness and duration sufficient to sup-
20 port generation investment (or equivalent tradable or fi-
21 nancial long-term transmission rights), shall be available
22 under appropriate terms and conditions to load-serving en-
23 tities (as defined in section 217(a)(2)) for long-term power
24 supply arrangements for new generation facilities using
25 renewable energy.

1 “(l) RESOURCE ASSESSMENTS.—

2 “(1) IN GENERAL.—The Secretary shall con-
3 duct nationwide assessments to identify areas with a
4 significant potential for the development of location-
5 constrained resources.

6 “(2) FORMATS.—The resource assessments
7 shall be made available to the public in multiple for-
8 mats, including in a Geographical Information Sys-
9 tem compatible format.

10 “(3) TIMING.—The Secretary shall—

11 “(A) make the initial resource assessment
12 required under this subsection not later than
13 180 days after the date of enactment of the
14 _____ Act of 2009; and

15 “(B) refine the resource assessment on a
16 regular basis that is consistent with regional
17 planning cycles.

18 “(4) TECHNICAL ASSISTANCE.—The Secretary
19 shall provide technical assistance to regional plan-
20 ning authorities, on request, to assist the authorities
21 in carrying out this subsection.

22 “(m) CONGESTION STUDIES.—Not later than 1 year
23 after the date of enactment of the _____ Act of 2009
24 and every 3 years thereafter, the Secretary, in consulta-
25 tion with affected States and Indian tribes, shall—

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

3 “(2) submit to the appropriate committees of
4 Congress a report that describes the results of the
5 study.

6 “(n) APPLICABILITY.—

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

16 “(2) REGIONAL PLANNING ENTITIES.—The
17 Commission shall have authority over regional plan-
18 ning entities to the extent necessary to carry out
19 this section.

20 “(3) PROJECT DEVELOPERS.—Nothing in this
21 section precludes the development, subject to appli-
22 cable regulatory requirements, of transmission
23 projects that are not included in plans developed
24 under this section.

1 “(4) COMMISSION-APPROVED PLANNING PROC-
2 ESSES.—Nothing in this section affects the approval,
3 siting, or cost allocation for a project that is author-
4 ized pursuant to planning processes that have been
5 approved by the Commission.

6 “(5) EXCLUSIONS.—This section does not apply
7 in the State of Alaska or Hawaii or to the Electric
8 Reliability Council of Texas, unless the State or the
9 Council voluntarily elects to participate in a cost al-
10 location plan under this section.”.