

119TH CONGRESS
2D SESSION

S. _____

To require Regional Transmission Organizations and Independent System Operators administering an open access transmission tariff to offer basic access service for energy-only delivery, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To require Regional Transmission Organizations and Independent System Operators administering an open access transmission tariff to offer basic access service for energy-only delivery, 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 “Grid Connection and
5 Congestion Management Act”.

1 **SEC. 2. BASIC ACCESS SERVICE FOR ENERGY-ONLY DELIV-**
2 **ERY.**

3 Part II of the Federal Power Act (16 U.S.C. 824 et
4 seq.) is amended by adding at the end the following:

5 **“SEC. 224. BASIC ACCESS SERVICE FOR ENERGY-ONLY DE-**
6 **LIVERY.**

7 “(a) DEFINITIONS.—In this section:

8 “(1) BASIC ACCESS SERVICE FOR ENERGY-ONLY
9 DELIVERY.—The term ‘basic access service for en-
10 ergy-only delivery’ means interconnection service
11 that permits a generating facility to interconnect
12 and inject at the point of interconnection up to the
13 level approved through an evaluation described in
14 subsection (d)(1), subject to that evaluation and the
15 conditions described in subsection (f).

16 “(2) COMMISSION.—The term ‘Commission’
17 means the Federal Energy Regulatory Commission.

18 “(3) DELIVERABILITY.—The term ‘deliver-
19 ability’ means the ability of a generating facility to
20 deliver electric energy to load, market, or trans-
21 mission service points without congestion-related
22 curtailment.

23 “(4) GENERATING FACILITY.—The term ‘gener-
24 ating facility’ means a device of an interconnection
25 customer for the production or storage of electricity,

1 as identified in an interconnection request submitted
2 under a Commission-jurisdictional tariff.

3 “(5) INTERCONNECTION CUSTOMER.—The term
4 ‘interconnection customer’ means any person that
5 proposes to interconnect a generating facility with
6 the transmission system of a Regional Transmission
7 Organization or Independent System Operator.

8 “(6) OPEN ACCESS TRANSMISSION TARIFF.—
9 The term ‘open access transmission tariff’ means a
10 tariff providing for transmission service that com-
11 plies with the provisions of section 35.28 of title 18,
12 Code of Federal Regulations (or a successor regula-
13 tion).

14 “(7) RELIABILITY STANDARD.—The term ‘reli-
15 ability standard’ has the meaning given the term in
16 section 215(a).

17 “(8) TRANSMISSION SYSTEM.—The term ‘trans-
18 mission system’ means the facilities of a Regional
19 Transmission Organization or Independent System
20 Operator that are used to provide wholesale trans-
21 mission services.

22 “(b) UNJUST AND UNREASONABLE PRACTICES.—

23 “(1) IN GENERAL.—Subject to paragraph (2),
24 beginning 1 year after the date of enactment of this
25 section, it shall be unjust and unreasonable within

1 the meaning of sections 205 and 206 for any Re-
2 gional Transmission Organization or Independent
3 System Operator to maintain rates, terms, or condi-
4 tions of service that do not provide for basic access
5 service for energy-only delivery.

6 “(2) EFFECT OF TIMELY TARIFF FILING.—If a
7 Regional Transmission Organization or Independent
8 System Operator submits a tariff filing by the appli-
9 cable deadline under subsection (c), including any
10 extended deadline under paragraph (3) of that sub-
11 section, paragraph (1) shall apply to that Regional
12 Transmission Organization or Independent System
13 Operator beginning on the later of—

14 “(A) the date described in paragraph (1);
15 and

16 “(B) the date on which the Commission
17 accepts the filing or fixes rates, terms, and con-
18 ditions of service under subsection (j).

19 “(c) TARIFF FILINGS.—

20 “(1) IN GENERAL.—Subject to paragraph (3),
21 not later than 180 days after the date of enactment
22 of this section, each Regional Transmission Organi-
23 zation and Independent System Operator shall sub-
24 mit to the Commission pursuant to section 205 con-
25 forming revisions to the open access transmission

1 tariff of the Regional Transmission Organization or
2 Independent System Operator to offer basic access
3 service for energy-only delivery.

4 “(2) REQUIREMENTS.—Revisions to an open
5 access transmission tariff under paragraph (1)
6 shall—

7 “(A) establish a study process, including
8 proposed timelines under subsection (i), for
9 evaluating requests for basic access service for
10 energy-only delivery meeting the requirements
11 of subsections (d) and (h);

12 “(B) grant interconnection rights in ac-
13 cordance with subsection (e);

14 “(C) condition service only to the extent
15 permitted under subsection (f); and

16 “(D) provide a pathway to transition from
17 basic access service for energy-only delivery to
18 other types of interconnection service offered by
19 the Regional Transmission Organization or
20 Independent System Operator, in accordance
21 with subsection (g).

22 “(3) EXTENSION.—On a showing of good
23 cause, the Commission may extend by not more than
24 180 days the deadline for submission of revisions
25 under paragraph (1) by 1 or more Regional Trans-

1 mission Organizations or Independent System Oper-
2 ators.

3 “(d) EVALUATION OF REQUEST.—

4 “(1) IN GENERAL.—The evaluation of a request
5 for basic access service for energy-only delivery
6 shall—

7 “(A) consist of only the set of steady-state
8 (thermal and voltage), short-circuit, stability
9 analysis, and facilities studies, as provided for
10 under section 35.28 of title 18, Code of Federal
11 Regulations (or a successor regulation) (and the
12 corresponding generator interconnection proce-
13 dures), that are necessary to determine whether
14 additional transmission facilities or upgrades to
15 existing transmission facilities are needed to re-
16 liably interconnect a new or modified generating
17 facility to the transmission system of the appli-
18 cable Regional Transmission Organization or
19 Independent System Operator in compliance
20 with applicable reliability standards; and

21 “(B) reflect the expected operating charac-
22 teristics of the generating facility, including any
23 operating limits, curtailment provisions, or
24 modifications to the generating facility proposed
25 or agreed to by the interconnection customer.

1 “(2) FINDINGS.—

2 “(A) IN GENERAL.—An evaluation under
3 paragraph (1) shall identify—

4 “(i) the maximum level of injection at
5 the point of interconnection that can be ac-
6 commodated without additional trans-
7 mission facilities or upgrades to existing
8 transmission facilities;

9 “(ii) any additional transmission fa-
10 cilities or upgrades to existing transmission
11 facilities necessary to accommodate injec-
12 tion above the level identified under clause
13 (i), up to the level requested by the inter-
14 connection customer; and

15 “(iii) each constraint assumed under
16 paragraph (4) to be managed through
17 operational measures.

18 “(B) ELECTION.—An interconnection cus-
19 tomer may elect to receive basic access service
20 for energy-only delivery—

21 “(i) at the level identified under sub-
22 paragraph (A)(i) without additional trans-
23 mission facilities or upgrades; or

24 “(ii) at a higher approved level, sub-
25 ject to subsection (f)(2).

1 “(3) DELIVERABILITY LIMITATION.—

2 “(A) IN GENERAL.—The evaluation de-
3 scribed in paragraph (1) shall not be used to
4 identify facilities or upgrades, or require the
5 construction of facilities, for the purpose of—

6 “(i) enabling the deliverability of elec-
7 tric energy from the generating facility to
8 load, market, or transmission service
9 points; or

10 “(ii) ensuring that the generating fa-
11 cility will not experience congestion-related
12 curtailment.

13 “(B) INCIDENTAL EFFECTS ON DELIVER-
14 ABILITY OR CONGESTION-RELATED CURTAIL-
15 MENT.—Nothing in subparagraph (A) prohibits
16 the identification of facilities or upgrades
17 that—

18 “(i) are necessary to reliably inter-
19 connect a generating facility in compliance
20 with applicable reliability standards; and

21 “(ii) may have incidental effects on
22 deliverability or congestion-related curtail-
23 ment.

24 “(4) OPERATIONALLY MANAGEABLE CON-
25 STRAINTS.—An evaluation under paragraph (1)—

1 “(A) shall assume that a constraint identi-
2 fied in the evaluation will be managed through
3 operational measures, including redispatch, cur-
4 tailment, operating limits, and remedial action
5 schemes; and

6 “(B) may identify facilities or upgrades for
7 a constraint only to the extent that operational
8 measures cannot maintain compliance with ap-
9 plicable reliability standards.

10 “(5) STUDY TIMELINES.—The applicable Re-
11 gional Transmission Organization or Independent
12 System Operator shall establish procedures to com-
13 plete the evaluation of a request for basic access
14 service for energy-only delivery not later than 1 year
15 after the date on which the request is submitted.

16 “(e) INTERCONNECTION RIGHTS.—Basic access serv-
17 ice for energy-only delivery shall be subject to operating
18 limits, curtailment provisions, and the terms of the appli-
19 cable interconnection agreement, so long as those limits,
20 provisions, and terms are not unjust, unreasonable, or un-
21 duly discriminatory or preferential.

22 “(f) CONDITIONS OF SERVICE.—

23 “(1) CONGESTION-RELATED CURTAILMENT.—
24 Basic access service for energy-only delivery may be
25 subject to congestion-related curtailment, including

1 curtailment associated with constraints identified in
2 the evaluation under subsection (d)(1).

3 “(2) UPGRADE IDENTIFICATION AND COST RE-
4 SPONSIBILITY.—Construction and cost responsibility
5 for basic access service for energy-only delivery shall
6 be limited to facilities or upgrades identified as nec-
7 essary through the evaluation under subsection
8 (d)(1), unless such identification is based solely on
9 the facility or upgrade—

10 “(A) increasing deliverability;

11 “(B) reducing congestion-related curtail-
12 ment; or

13 “(C) satisfying a deliverability, capacity
14 deliverability, or congestion-impact screen not
15 required for the evaluation under subsection
16 (d)(1).

17 “(g) TRANSITION PATH.—An interconnection cus-
18 tomer receiving basic access service for energy-only deliv-
19 ery may transition to any other interconnection service,
20 including network resource interconnection service—

21 “(1) under the process and terms provided to
22 interconnection customers that are not receiving
23 basic access service for energy-only delivery; and

24 “(2) without forfeiting the right to continue op-
25 erating under this section until the applicable gener-

1 ating facility begins receiving any other interconnec-
2 tion service.

3 “(h) INDEPENDENT STUDY ELECTION.—

4 “(1) IN GENERAL.—An interconnection cus-
5 tomer requesting basic access service for energy-only
6 delivery may elect to have the evaluation described
7 in subsection (d)(1) conducted independently of any
8 grouped study process, such as a cluster study that
9 evaluates many interconnection requests simulta-
10 neously.

11 “(2) LIMITATION.—A Regional Transmission
12 Organization or Independent System Operator may
13 not—

14 “(A) condition the availability of basic ac-
15 cess service for energy-only delivery on partici-
16 pation in a grouped study process described in
17 paragraph (1);

18 “(B) make the evaluation or provision of
19 basic access service for energy-only delivery con-
20 tingent on the completion of any grouped study
21 process described in that paragraph, including
22 any interconnection study process of the Re-
23 gional Transmission Organization or Inde-
24 pendent System Operator used for other types
25 of interconnection service; or

1 “(C) delay the commencement or comple-
2 tion of an evaluation described in subsection
3 (d)(1) pending the commencement or comple-
4 tion of any grouped study process described in
5 paragraph (1).

6 “(3) PERMITTED CONDITIONS.—In order to fa-
7 cilitate the evaluation and interconnection of inter-
8 connection customers requesting basic access service
9 for energy-only delivery in a manner that does not
10 slow the completion of any grouped study process
11 described in paragraph (1), a Regional Transmission
12 Organization or Independent System Operator may
13 condition the basic access service for energy-only de-
14 livery for that interconnection customer on—

15 “(A) curtailment by the interconnection
16 customer to mitigate system impacts revealed in
17 the evaluation carried out pursuant to sub-
18 section (d)(1); or

19 “(B) modifications to the generating facil-
20 ity proposed by the interconnection customer to
21 be interconnected to the transmission system of
22 the Regional Transmission Organization or
23 Independent System Operator to mitigate or
24 avoid those impacts.

1 “(i) STUDY TIMELINES.—Each tariff filing under
2 subsection (c) shall include—

3 “(1) proposed timelines for completing the eval-
4 uation under subsection (d)(1); and

5 “(2) supporting information that—

6 “(A) demonstrates that those timelines are
7 reasonable; and

8 “(B) accounts for the scope of review need-
9 ed to reliably interconnect a generating facility
10 under that subsection.

11 “(j) COMMISSION ACTION ON TARIFF PROPOSALS.—

12 “(1) IN GENERAL.—Not later than 180 days
13 after the filing of a tariff proposal under subsection
14 (c), the Commission shall—

15 “(A) accept the filing, if the Commission
16 determines that the filing complies with this
17 section and is otherwise just, reasonable, and
18 not unduly discriminatory or preferential; or

19 “(B) fix such rates, terms, and conditions
20 of service as the Commission determines to be
21 just, reasonable, not unduly discriminatory or
22 preferential, and in compliance with this sec-
23 tion.

1 “(2) TIMELINES.—In carrying out paragraph
2 (1), the Commission may accept, reject, or modify a
3 proposed timeline in the tariff proposal.

4 “(k) COMMISSION ESTABLISHMENT OF PRO FORMA
5 TARIFF.—

6 “(1) IN GENERAL.—Not later than 18 months
7 after the date of enactment of this section, the Com-
8 mission shall revise the pro forma open access trans-
9 mission tariff to integrate basic access service for
10 energy-only delivery into that pro forma tariff in a
11 manner that meets the requirements of this section.

12 “(2) VARIATION.—The Commission may permit
13 a Regional Transmission Organization or Inde-
14 pendent System Operator to seek variation from the
15 pro forma tariff revised under paragraph (1) to the
16 extent that the variations—

17 “(A) are consistent with or superior to the
18 pro forma tariff; and

19 “(B) meet all requirements of this section.

20 “(3) EFFECT OF ACCEPTANCE OF TARIFF.—Ac-
21 ceptance by the Commission of a tariff proposal sub-
22 mitted under subsection (c) shall not, on its own, es-
23 tablish compliance with the requirements of the pro
24 forma open access transmission tariff revised under
25 paragraph (1).

1 “(4) COMMISSION AUTHORITY.—In revising the
2 pro forma open access transmission tariff under
3 paragraph (1), the Commission may establish—

4 “(A) benchmark timelines, timeline-review
5 standards, and best practices for completing the
6 evaluation under subsection (d)(1), including
7 standards for modifying timelines established
8 pursuant to this section;

9 “(B) standards for transparency with re-
10 spect to constraints identified under subsection
11 (d), including the operational measures and op-
12 erating limits applicable to basic access service
13 for energy-only delivery; and

14 “(C) any other process or policy that is at
15 least as stringent as the requirements of this
16 section.

17 “(1) COMPLAINTS.—

18 “(1) IN GENERAL.—The Commission shall act
19 on the merits of any complaint filed pursuant to sec-
20 tion 206 alleging noncompliance with this section
21 not later than 180 days after the date on which the
22 complaint is filed.

23 “(2) CONSOLIDATION.—To maximize adminis-
24 trative efficiency, the Commission may consolidate
25 and act on related complaints with respect to a given

1 Regional Transmission Organization or Independent
2 System Operator.

3 “(m) SEVERABILITY.—If any provision of this sec-
4 tion, or the application of any provision of this section to
5 any person or circumstance, is held invalid, the remainder
6 of this section, and the application of the provisions of
7 this section to any other person or circumstance, shall not
8 be affected.”.