

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To ensure that a failure to act by the Federal Energy Regulatory Commission due to a tie vote of the Commissioners with respect to changes in schedules shall be treated as an order by the Commission for purposes of rehearing and court review.

**IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.**

**S. 186**

To amend the Federal Power Act to provide that any inaction by the Federal Energy Regulatory Commission that allows a rate change to go into effect shall be treated as an order by the Commission for purposes of rehearing and court review.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by \_\_\_\_\_

Viz:

1 On page 2, strike lines 1 through 9 and insert the  
2 following:

3 **SEC. 2. AMENDMENT TO THE FEDERAL POWER ACT.**

4 Section 205 of the Federal Power Act (16 U.S.C.  
5 824d) is amended by adding at the end the following:

6 “(g) INACTION OF COMMISSIONERS.—

7 “(1) IN GENERAL.—If the Commission permits  
8 the expiration of the 60–day period established

1 under the first sentence of subsection (d) because  
2 the members of the Commission are divided two  
3 against two as to the lawfulness of the change, as  
4 a result of vacancy, incapacity, or recusal on the  
5 Commission—

6 “(A) the failure to act by the Commission  
7 shall be considered to be an order issued by the  
8 Commission accepting the change for purposes  
9 of section 313(a); and

10 “(B) there shall be added to the record of  
11 the proceeding of the Commission—

12 “(i) the proposed order;

13 “(ii) notice of the division of the Com-  
14 missioners with respect to the proposed  
15 order; and

16 “(iii) the written statement of each  
17 member of the Commission explaining the  
18 views of the Commissioner with respect to  
19 the proposed order.

20 “(2) APPEAL.—If any party to a proceeding of  
21 the Commission described in paragraph (1) seeks a  
22 rehearing under section 313(a) and the Commission  
23 fails to act on the merits of the rehearing request by  
24 the date that is 30 days after the date of the rehear-  
25 ing request because the members of the Commission

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1       are divided two against two, as a result of vacancy,  
2       incapacity, or recusal on the Commission, any party  
3       that sought the rehearing may appeal under section  
4       313(b).”.