

112TH CONGRESS  
1ST SESSION

# H. R. 3280

To amend the Federal Power Act to establish a regional transmission planning process, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2011

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Federal Power Act to establish a regional transmission planning process, 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 “Powering America for  
5 Tomorrow Act”.

6 **SEC. 2. AMENDMENT OF THE FEDERAL POWER ACT.**

7 Section 216 of the Federal Power Act (16 U.S.C.  
8 824p) is amended as follows:

1           (1) By amending the section heading to read as  
2 follows: “**REGIONAL TRANSMISSION PLANS FOR**  
3 **THE INTERSTATE TRANSMISSION SYSTEM**”.

4           (2) By striking subsection (i) and redesignating  
5 subsections (j) and (k) as subsections (k) and (l), re-  
6 spectively.

7           (3) By redesignating subsections (d) through  
8 (h) as subsections (f) through (j), respectively.

9           (4) By striking subsections (a), (b), and (c) and  
10 inserting the following:

11       “(a) **PURPOSES.**—The purposes of this section are as  
12 follows:

13           “(1) To ensure electric reliability, fuel diversity,  
14 and wholesale power price stability across the elec-  
15 tric transmission grid.

16           “(2) To reinforce, strengthen, and enhance elec-  
17 tric transmission infrastructure as an integrated net-  
18 work system.

19           “(3) To facilitate the development of clean en-  
20 ergy resources that cannot be located near an exist-  
21 ing transmission facility or load center.

22           “(4) To assist States and electric energy service  
23 providers in meeting the requirements of applicable  
24 renewable portfolio standards.

1           “(5) To take maximum advantage of smart grid  
2 technologies to promote electric grid improvements,  
3 energy efficiency, and demand response.

4           “(6) To coordinate regional planning and local  
5 siting of interstate high-voltage electric transmission  
6 systems.

7           “(b) DEFINITIONS.—In this section:

8           “(1) The term ‘bulk-power system’ has the  
9 meaning given such term in section 215(a)(1).

10           “(2) The term ‘designated region’ means a re-  
11 gion designated under subsection (c)(1).

12           “(3) The term ‘Electric Reliability Organiza-  
13 tion’ has the meaning given such term in section  
14 215(a)(2).

15           “(4) The term ‘Interconnection’ has the mean-  
16 ing given such term in section 215(a)(5).

17           “(5) The term ‘regional entity’ has the meaning  
18 given such term in section 215(a)(7).

19           “(6) The term ‘regional transmission plan’  
20 means a comprehensive plan required under sub-  
21 section (c)(3) for the development of the interstate  
22 electric transmission system in a designated region.

23           “(7) The term ‘regional transmission planner’  
24 means a person or entity approved under subsection

1 (c)(2) to develop and maintain a regional trans-  
2 mission plan required under this section.

3 “(8) The term ‘regional transmission project’  
4 means an overhead or underground transmission fa-  
5 cility, consisting of conductors or cables, towers,  
6 manhole duct systems, phase shifting transformers,  
7 reactors, capacitors, substations, and any ancillary  
8 facilities and equipment necessary for the proper op-  
9 eration of the facility—

10 “(A) that—

11 “(i) operates at or above a voltage  
12 of—

13 “(I) 230 kilovolts alternating  
14 current; or

15 “(II) 300 kilovolts direct current;

16 “(ii) is a very high current conductor  
17 or superconducting cable that operates at  
18 or above a power equivalent to the power  
19 of a conventional transmission cable oper-  
20 ating at or above 230 kilovolts alternating  
21 current or 300 kilovolts direct current; or

22 “(iii) is a renewable feeder line; and

23 “(B) that is included in a regional trans-  
24 mission plan submitted to the Commission  
25 under subsection (c)(3).

1           “(9) The term ‘renewable feeder line’ means a  
2 transmission line that—

3           “(A) operates at or above a voltage of 100  
4 kilovolts; and

5           “(B) is identified in a regional trans-  
6 mission plan submitted to the Commission  
7 under subsection (c)(3) as a facility that is to  
8 be developed to facilitate collection of electric  
9 energy produced by renewable energy.

10          “(10) The term ‘transmission organization’ has  
11 the meaning given such term in section 215(a)(6).

12          “(c) REGIONAL TRANSMISSION PLANS.—

13           “(1) DESIGNATION OF REGIONS.—Not later  
14 than 12 months after the date of enactment of this  
15 subsection, the Commission, in consultation with the  
16 Electric Reliability Organization, regional entities,  
17 transmission organizations, transmission owners,  
18 State regulatory authorities of the States comprising  
19 the Eastern Interconnection, and State regulatory  
20 authorities of the States comprising the Western  
21 Interconnection, shall designate one or more regions  
22 within the Eastern Interconnection and one or more  
23 regions within the Western Interconnection, to be  
24 represented by regional transmission planners ap-  
25 proved under paragraph (2). In determining the ap-

1       appropriate size and scope of a region, the Commission  
2       shall consider the optimal scope needed to ensure  
3       comprehensive regional transmission planning and  
4       operational efficiency, the size and scope of existing  
5       Regional Transmission Organizations and operating  
6       bulk-power systems, and methods for interregional  
7       coordination agreements to ensure a sufficiently  
8       broad regional transmission planning process.

9               “(2) REGIONAL TRANSMISSION PLANNERS.—

10               “(A) APPLICATION AND APPROVAL.—Any  
11               person or entity, including a Regional Trans-  
12               mission Organization or other regionally-based  
13               planning entity with an established regional  
14               transmission planning process, as determined  
15               by the Commission, may submit an application  
16               to the Commission for approval as the regional  
17               transmission planner for a designated region.  
18               Not later than 18 months after the designation  
19               of a region under paragraph (1), the Commis-  
20               sion shall approve one such regional trans-  
21               mission planner for each such designated region  
22               to develop and maintain a regional transmission  
23               plan required under this section.

24               “(B) CONSIDERATION.—In approving a re-  
25               gional transmission planner under subpara-

1 graph (A), the Commission shall consider the  
2 existing or reasonably anticipated capabilities of  
3 any regionally-based planning entity described  
4 in such subparagraph in regional transmission  
5 planning.

6 “(C) CONTENTS OF APPLICATION.—An ap-  
7 plicant entity shall include in an application for  
8 approval as the regional transmission planner  
9 for a designated region the operating proce-  
10 dures of such applicant entity and any method  
11 such applicant entity will use to adhere to the  
12 requirements for a regional transmission plan-  
13 ning process described in paragraph (5).

14 “(D) COMPLIANCE.—The Commission may  
15 review the compliance of a regional trans-  
16 mission planner approved under subparagraph  
17 (A) with the requirements of this section and  
18 any regulations thereunder. If the Commission  
19 finds such a regional transmission planner has  
20 failed or is failing to comply with such require-  
21 ments or regulations, the Commission may re-  
22 voke the approval of such regional transmission  
23 planner for a designated region and accept ap-  
24 plications for a new regional transmission plan-

1           ner for such region to be approved in accord-  
2           ance with this section.

3           “(3) REGIONAL TRANSMISSION PLAN RE-  
4           QUIRED.—Not later than 2 years after the approval  
5           of a regional transmission planner under paragraph  
6           (2), and every 2 years thereafter, such regional  
7           transmission planner shall submit to the Commission  
8           an initial or updated regional transmission plan that  
9           meets the requirements of this section. The Commis-  
10          sion shall ensure that each such plan is the result  
11          of a planning process that adhered to the require-  
12          ments for a regional transmission planning process  
13          described in paragraph (5). The Commission shall  
14          make all regional transmission plans submitted  
15          available to the public.

16          “(4) REGIONAL TRANSMISSION PLAN DESIGN.—  
17          A regional transmission plan required under this  
18          section shall, with respect to a designated region—

19                 “(A) be designed to—

20                         “(i) maintain and enhance the eco-  
21                         nomic, reliability, and energy security ben-  
22                         efits of the regional electric transmission  
23                         system, including remediation of electric  
24                         grid congestion; and

1                   “(ii) anticipate and facilitate develop-  
2                   ment of electric energy generation from di-  
3                   verse energy resources; and

4                   “(B) consider whether proposals to expand  
5                   and upgrade high voltage electric transmission  
6                   in the designated region and across the bound-  
7                   aries of the designated region will minimize  
8                   congestion and promote service reliability, mar-  
9                   ket integration and efficiency, economic devel-  
10                  opment, deployment of smart grid technologies,  
11                  lowest cost delivered electric energy at whole-  
12                  sale, and the goals of applicable renewable port-  
13                  folio standards.

14                  “(5) REGIONAL TRANSMISSION PLANNING  
15                  PROCESS.—The Commission shall ensure each re-  
16                  gional transmission planning process conducted by a  
17                  regional transmission planner is consistent with the  
18                  purposes of this section. The Commission shall en-  
19                  sure any such planning process—

20                         “(A) is non-discriminatory, independent,  
21                         and conforms with the planning standards of  
22                         Commission Order No. 890 or any successor  
23                         order;

24                         “(B) solicits and considers the input of  
25                         local and State policymakers, transmission facil-

1           ity owners and electric utilities, and market  
2           participants;

3           “(C) is sufficiently broad in geographic  
4           and market scope to produce economic and  
5           operational efficiencies;

6           “(D) is designed to meet the need for the  
7           timely construction or modification of regional  
8           transmission projects; and

9           “(E) takes into account—

10           “(i) all applicable laws and regula-  
11           tions governing the procurement of electric  
12           energy generation;

13           “(ii) the potential effect on the future  
14           operation of the electric transmission sys-  
15           tem or on the regional transmission plan of  
16           rejection or withdrawal of a proposed re-  
17           gional transmission project;

18           “(iii) the development of transmission  
19           facilities for which a completed application  
20           for authorization has been filed and ac-  
21           cepted by a State regulatory authority or  
22           other applicable authority before the date  
23           of submission of a regional transmission  
24           plan under paragraph (3) but not origi-  
25           nating from the planning process;

1           “(iv) the availability of non-trans-  
2           mission resources such as opportunities for  
3           energy efficiency, demand response, en-  
4           hancements to economic dispatch, distrib-  
5           uted generation, and installation of new  
6           control, metering, or capacity enhancement  
7           technologies; and

8           “(v) the development of the interstate  
9           electric transmission system in the des-  
10          ignated region for the 10 years after sub-  
11          mission of a regional transmission plan  
12          under paragraph (3).

13           “(6) TRANSMITTING UTILITIES AND POWER  
14          MARKETING ADMINISTRATIONS.—Federal power  
15          marketing administrations and transmitting utilities  
16          in a designated region shall integrate their trans-  
17          mission plans with the regional transmission plans  
18          required by this section and shall otherwise partici-  
19          pate in a regional transmission planning process by  
20          a regional transmission planner in accordance with  
21          this section.

22           “(7) COMMISSION ACTIVITIES.—If no regional  
23          transmission planner for a designated region is ap-  
24          proved under paragraph (2), or in the event that an  
25          approved regional transmission planner does not

1 timely submit a regional transmission plan as re-  
2 quired under paragraph (3), the Commission shall  
3 designate a planner or undertake the planning ac-  
4 tivities described in this subsection for the des-  
5 ignated region concerned and develop such a plan  
6 for such designated region expeditiously, in consulta-  
7 tion with State regulatory authorities, as applicable,  
8 for all affected States or areas, the Electric Reli-  
9 ability Organization, regional entities, transmission  
10 organizations, and transmission owners within the  
11 region, as appropriate.

12 “(8) COST ALLOCATION.—Not later than 18  
13 months after the date of enactment of this para-  
14 graph, the Commission shall, by rule, require that  
15 all regional high voltage electric transmission cost al-  
16 location processes and methodologies adhere to a  
17 clear and consistent set of regulatory principles, in-  
18 cluding, as appropriate, that the costs of siting and  
19 the construction or modification of transmission fa-  
20 cilities shall be allocated consistent with the range  
21 and distribution of benefits within the designated re-  
22 gion that are provided by such facilities, the use of  
23 the transmission system, or with other equitable and  
24 economic considerations. In issuing a rule under this  
25 paragraph, the Commission shall consider regional

1 cost allocation processes and methodologies being de-  
2 veloped or in existence as of the date of enactment  
3 of this paragraph.

4 “(9) PLAN COORDINATION.—The Commission  
5 shall require regional transmission planners to co-  
6 ordinate planning across regional boundaries within  
7 an Interconnection in order to achieve the purposes  
8 of this section.

9 “(d) CERTIFICATE OF PUBLIC CONVENIENCE AND  
10 NECESSITY.—

11 “(1) PROPOSED FINDING OF PUBLIC CONVEN-  
12 IENCE AND NECESSITY BY REGIONAL TRANSMISSION  
13 PLANNER.—

14 “(A) INCLUSION OF PROPOSED FINDING IN  
15 REGIONAL TRANSMISSION PLAN.—As part of a  
16 regional transmission plan submitted to the  
17 Commission under subsection (c)(3), a regional  
18 transmission planner may identify a regional  
19 transmission project or projects that such re-  
20 gional transmission planner finds, based on the  
21 record of the regional transmission planning  
22 process, is required by, and consistent with, the  
23 public convenience and necessity.

24 “(B) PUBLIC CONVENIENCE AND NECES-  
25 SITY CERTIFICATE REQUEST.—A regional

1 transmission planner may submit to the Com-  
2 mission a request to issue a certificate of public  
3 convenience and necessity for a regional trans-  
4 mission project identified in a regional trans-  
5 mission plan submitted under subsection (c)(3).  
6 Such request shall include a summary of the  
7 record developed for such project during the re-  
8 gional transmission planning process. The re-  
9 quest shall be based on whether such regional  
10 transmission project is or will be—

11 “(i) necessary to ensure regional com-  
12 pliance with reliability standards or remedy  
13 violations of such reliability standards;

14 “(ii) necessary to provide significant  
15 relief from electric transmission congestion  
16 as measured by objective criteria, including  
17 consideration of the total cost of conges-  
18 tion, hours of congestion, and the lack of  
19 feasible economic alternative means to re-  
20 lieve congestion;

21 “(iii) important to the diversification  
22 of energy supply throughout the designated  
23 region, including by meeting the goals of  
24 applicable renewable portfolio standards; or

1           “(iv) important to the development of  
2           smart grid technology that is consistent  
3           with the policy under title XIII of the En-  
4           ergy Independence and Security Act of  
5           2007 (42 U.S.C. 17381 et seq.).

6           “(2) ISSUANCE OF CERTIFICATE OF PUBLIC  
7           CONVENIENCE AND NECESSITY.—The Commission  
8           may, after notice and opportunity for hearing, find  
9           that a regional transmission project is in the public  
10          convenience and necessity and issue a certificate of  
11          public convenience and necessity for the ownership  
12          and operation of such regional transmission project  
13          and the provision of any related services under the  
14          jurisdiction of the Commission if the Commission  
15          finds that—

16               “(A) a regional transmission planner in-  
17               cluded a proposed finding of public convenience  
18               and necessity for such proposed regional trans-  
19               mission project in one or more relevant regional  
20               transmission plans submitted to the Commis-  
21               sion under subsection (c)(3);

22               “(B) a regional transmission planner sub-  
23               mitted a request for the issuance of such a cer-  
24               tificate;

1           “(C) the proposed regional transmission  
2 project will be used for the transmission of elec-  
3 tric energy in interstate commerce;

4           “(D) the proposed regional transmission  
5 project is consistent with the public interest in  
6 terms of its engineering, reliability, and other  
7 economic characteristics and the purposes of  
8 this section; and

9           “(E) the proposed regional transmission  
10 project will maximize, to the extent reasonable  
11 and economical, existing rights-of-way and the  
12 transmission capabilities of existing towers and  
13 structures.

14           “(3) CONSIDERATIONS.—In issuing a certificate  
15 of public convenience and necessity under this sub-  
16 section, the Commission shall give substantial def-  
17 erence to any proposed finding of public convenience  
18 and necessity by a regional transmission planner in  
19 a regional transmission plan submitted under sub-  
20 section (c)(3).

21           “(4) MULTIPLE PROJECTS.—The Commission  
22 may treat multiple proposed regional transmission  
23 projects in any regional transmission plan as sepa-  
24 rate for purposes of determining whether a certifi-

1       cate of public convenience and necessity should be  
2       issued under this subsection.

3               “(5) CERTIFICATE APPLICATIONS.—The Com-  
4       mission shall issue rules specifying—

5                       “(A) the form of the application for a cer-  
6       tificate of public convenience and necessity  
7       under this subsection; and

8                       “(B) the information to be contained in  
9       such application.

10               “(6) ENVIRONMENTAL REVIEW.—

11                       “(A) PROPOSED FINDING BY REGIONAL  
12       TRANSMISSION PLANNER.—A proposed finding  
13       by a regional transmission planner of public  
14       convenience and necessity regarding a regional  
15       transmission project is excluded from review  
16       under the National Environmental Policy Act of  
17       1969 (42 U.S.C. 4321 et seq.), provided an en-  
18       vironmental assessment or environmental im-  
19       pact statement is required to be prepared by  
20       the Commission under such Act.

21                       “(B) CONSIDERATION BY COMMISSION.—  
22       The Commission may consider, wholly or in  
23       part, any draft environmental analysis con-  
24       ducted by a regional transmission planner or

1 relevant transmission provider and issued by  
2 the regional transmission planner.

3 “(e) SITING AUTHORITY.—

4 “(1) EXCLUSIVE STATE SITING AUTHORITY.—A  
5 State shall retain exclusive authority over the siting  
6 of any transmission facility that is not a part of a  
7 regional transmission project for which a certificate  
8 of public convenience and necessity has been issued  
9 under subsection (d)(2).

10 “(2) FEDERAL SITING AUTHORITY.—The Com-  
11 mission may, after notice and an opportunity for  
12 hearing, issue one or more permits for the construc-  
13 tion or modification of electric transmission facilities  
14 if the Commission finds that—

15 “(A) the transmission facility was identi-  
16 fied as part or all of a regional transmission  
17 project for which a certificate of public conven-  
18 ience and necessity has been issued under sub-  
19 section (d)(2); and

20 “(B) the—

21 “(i) State in which the transmission  
22 facility is to be sited does not have author-  
23 ity to—

24 “(I) approve the siting of the fa-  
25 cility; or

1           “(II) consider the interstate ben-  
2           efits expected to be achieved by the  
3           proposed siting of the transmission fa-  
4           cility in the State;

5           “(ii) applicant for a permit is a trans-  
6           mitting utility but does not qualify to  
7           apply for a permit for the proposed trans-  
8           mission facility in a State because the ap-  
9           plicant does not serve end-use customers in  
10          the State; or

11          “(iii) State commission or other entity  
12          that has authority to approve the siting of  
13          the transmission facility—

14                 “(I) did not issue a decision on  
15                 an application seeking approval for  
16                 the siting of the facility within 1 year  
17                 after the date the applicant submitted  
18                 a completed application to the State  
19                 commission or other authority;

20                 “(II) denied a complete applica-  
21                 tion seeking approval for the siting of  
22                 the transmission facility; or

23                 “(III) authorized the siting of the  
24                 facility subject to conditions that un-

1 reasonably interfere with the siting of  
2 the transmission facility.”.

3 (5) In subsection (f), as redesignated by para-  
4 graph (3), by striking “subsection (b)” and inserting  
5 “subsection (e)”.

6 (6) In subsection (g), as redesignated by para-  
7 graph (3), by striking “subsection (b)” and inserting  
8 “subsection (e)”.

9 (7) In subsection (h), as redesignated by para-  
10 graph (3), by striking “subsection (e)” and inserting  
11 “subsection (g)”.

12 (8) In subsection (k)(2), as redesignated by  
13 paragraph (2), by striking “Subsection (h)(6)” and  
14 inserting “Subsection (j)(6)”.

15 (9) By amending subsection (l), as redesignated  
16 by paragraph (2), to read as follows:

17 “(l) **APPLICABILITY.**—This section applies only to  
18 States located in the Western Interconnection and States  
19 located in the Eastern Interconnection and does not apply  
20 to the States of Alaska or Hawaii, or to areas under the  
21 authority of the Electric Reliability Council of Texas.”.

○