

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 “(2) opportunities for reduced emissions from  
18 regional power production;

19 “(3) cost savings resulting from—

20 “(A) reduced transmission congestion;

21 “(B) enhanced opportunities for  
22 intraregional and interregional electricity  
23 trades;

1 “(C) reduced line losses;

2 “(D) generation resource-sharing; and

3 “(E) enhanced fuel diversity;

4 “(4) reliability benefits, including satisfying re-  
5 liability standards and guidelines for resource ade-  
6 quacy and system security;

7 “(5) diversification of risk relating to events af-  
8 fecting fuel supply or generating resources in a par-  
9 ticular region;

10 “(6) the enhancement of competition in elec-  
11 tricity markets and mitigation of market power;

12 “(7) the ability to collocate facilities on existing  
13 rights-of-way;

14 “(8) competing land use priorities, including  
15 land protected under State law;

16 “(9) the requirements of section 217(b)(4); and

17 “(10) the contribution of demand response, en-  
18 ergy efficiency, and distributed generation resources.

19 “(b) DEFINITIONS.—In this section:

20 “(1) HIGH-PRIORITY NATIONAL TRANSMISSION  
21 PROJECT.—The term ‘high-priority national trans-  
22 mission project’ means an overhead or underground  
23 transmission facility, consisting of conductors or ca-  
24 bles, towers, manhole duct systems, phase shifting  
25 transformers, reactors, capacitors, and any ancillary

1 facilities and equipment necessary for the proper op-  
2 eration of the facility, that—

3 “(A)(i) operates at or above a voltage of  
4 345 kilovolts alternating current;

5 “(ii) operates at or above a voltage of 300  
6 kilovolts direct current; or

7 “(iii) is a renewable feeder line that trans-  
8 mits electricity directly or indirectly to a trans-  
9 mission facility that operates at or above a volt-  
10 age of 345 kilovolts alternating current or 300  
11 kilovolts direct current; and

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

14 “(2) LOAD-SERVING ENTITY.—The term ‘load-  
15 serving entity’ means any person, Federal, State, or  
16 local agency or instrumentality, or electric coopera-  
17 tive that delivers electric energy to end-use cus-  
18 tomers.

19 “(3) RENEWABLE ENERGY.—The term ‘renew-  
20 able energy’ means electric energy generated from—

21 “(A) solar energy;

22 “(B) wind energy;

23 “(C) marine and hydrokinetic renewable  
24 energy;

25 “(D) geothermal energy;

1 “(E) hydropower;

2 “(F) biomass; or

3 “(G) landfill gas.

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

7 “(A) operates at a voltage of 100 kilovolts  
8 or greater; and

9 “(B) is identified in the applicable high-  
10 priority national transmission plan or by the  
11 Commission as a facility that is to be developed  
12 substantially to facilitate collection or delivery  
13 to 1 or more load-serving entities or end-use  
14 customers of energy produced by renewable en-  
15 ergy.

16 “(5) SECRETARY.—The term ‘Secretary’ means  
17 the Secretary of Energy.

18 “(c) PLANS FOR NATIONAL INTERSTATE TRANS-  
19 MISSION SYSTEM.—

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

1 “(2) PLANNING PRINCIPLES.—

2 “(A) IN GENERAL.—Not later than 180  
3 days after the date of enactment of the  
4 \_\_\_\_\_ Act of 2009, the Commission shall  
5 issue, by rule, after notice and opportunity for  
6 comment, national electricity grid planning  
7 principles pursuant to the policy established  
8 under subsection (a).

9 “(B) CONTENT.—In the case of Regional  
10 Transmission Organizations, Independent Sys-  
11 tem Operators, and other public utilities, the  
12 principles shall—

13 “(i) address how the utilities should  
14 fully incorporate consideration of the need  
15 for high-priority national transmission  
16 projects into planning efforts;

17 “(ii) address how the utilities should  
18 coordinate with each other, States, and  
19 other planning efforts in the applicable  
20 Interconnection to effectively develop an  
21 Interconnection-wide analysis to identify  
22 needed additions to high-priority national  
23 transmission projects, with particular at-  
24 tention to identifying needs that can be  
25 most efficiently and effectively addressed

1 with new high-priority national trans-  
2 mission projects that cross multiple utili-  
3 ties, Regional Transmission Organizations,  
4 or Independent System Operators; and

5 “(iii) include mechanisms for solie-  
6 iting input from the Secretary, Federal  
7 transmitting utilities, the Secretary of the  
8 Interior, States, electric reliability organi-  
9 zations, regional entities, municipal and co-  
10 operative utilities, other interested parties,  
11 and the public.

12 “(C) FACTORS.—Plans for the develop-  
13 ment and improvement of high-priority national  
14 transmission projects into a national high-ca-  
15 pacity transmission grid shall take into consid-  
16 eration—

17 “(i) the location of load centers;

18 “(ii) the location of generation and  
19 potential generation development;

20 “(iii) existing and potential demand  
21 response and energy efficiency programs;

22 “(iv) the plans of Regional Trans-  
23 mission Organizations, Independent Sys-  
24 tem Operators, State authorities, trans-

1 mission owners, load-serving entities, and  
2 others in the region; and

3 “(v) the needs and long-term rights  
4 described in section 217(b).

5 “(3) INTERCONNECTION-WIDE ENTITY.—

6 “(A) IN GENERAL.—In carrying out this  
7 subsection, the Commission may defer to an  
8 Interconnection-wide entity that develops an  
9 Interconnection-wide transmission plan, if the  
10 Commission finds that—

11 “(i) the plan is in accordance with  
12 this section; and

13 “(ii) the entity is independent from  
14 owners, users, and nonindependent opera-  
15 tors of the transmission system, while en-  
16 suring fair representation of, and respon-  
17 siveness and accountability to, stakeholders  
18 and affected States.

19 “(B) REGIONAL PLAN.—If a plan de-  
20 scribed in subparagraph (A) is not submitted,  
21 in developing an Interconnection-wide plan and  
22 considering regional plans, the Commission  
23 shall take into account the degree to which re-  
24 gional plans were developed by an entity that is  
25 independent from owners, users, and noninde-

1           pendent operators of the transmission system,  
2           while ensuring fair representation of, and re-  
3           sponsiveness and accountability to, stakeholders  
4           and affected States.

5           “(d) SITING.—

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

10           “(2) STATE REVIEW OF PROJECT SITING.—

11           “(A) IN GENERAL.—No developer of a  
12           high-priority national transmission project may  
13           seek a certificate for construction under sub-  
14           section (e) unless the developer first seeks au-  
15           thorization to construct the high-priority na-  
16           tional transmission project under applicable  
17           State law concerning authorization and routing  
18           of transmission facilities.

19           “(B) FEDERAL AUTHORITY.—The Com-  
20           mission may authorize, in accordance with sub-  
21           section (e), construction of a high-priority na-  
22           tional transmission project that the Commission  
23           finds to be in the public interest and in accord-  
24           ance with this section if a State—

1           “(i) fails to approve construction and  
2 authorize routing of a high-priority na-  
3 tional transmission project not later than 1  
4 year after the date the developer applies  
5 for authorization from the State;

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

8           “(iii) authorizes the high-priority na-  
9 tional transmission project subject to con-  
10 ditions that unreasonably interfere with  
11 the development of a high-priority national  
12 transmission project contrary to the pur-  
13 poses of this section.

14       “(e) CONSTRUCTION.—

15           “(1) APPLICATION FOR CERTIFICATE.—

16           “(A) APPLICABILITY.—This paragraph ap-  
17 plies if any State affected by the proposed con-  
18 struction of a high-priority national trans-  
19 mission project—

20           “(i) fails to authorize construction of  
21 the high-priority national transmission  
22 project under State law not later than 1  
23 year after the date the developer applies  
24 for authorization from the State;;

25           “(ii) rejects the authorization; or



1                   “(ii) may approve (with or without  
2                   conditions) or disapprove the application,  
3                   in accordance with paragraph (2).

4                   “(2) GRANT OF CERTIFICATE.—

5                   “(A) IN GENERAL.—A certificate shall be  
6                   issued to a qualified applicant for a certificate  
7                   authorizing the whole or partial operation, con-  
8                   struction, acquisition, or modification covered  
9                   by the application, only if the Commission de-  
10                  termines that—

11                  “(i) the applicant is able and will-  
12                  ing—

13                  “(I) to do the acts and to per-  
14                  form the service proposed; and

15                  “(II) to comply with this Act (in-  
16                  cluding regulations); and

17                  “(ii) the proposed operation, construc-  
18                  tion, acquisition, or modification, to the ex-  
19                  tent authorized by the certificate, is or will  
20                  be required by the present or future public  
21                  convenience and necessity.

22                  “(B) TERMS AND CONDITIONS.—The Com-  
23                  mission shall have the power to attach to the  
24                  issuance of a certificate under this paragraph  
25                  and to the exercise of the rights granted under

1 the certificate such reasonable terms and condi-  
2 tions as the public convenience and necessity  
3 may require.

4 “(C) EVALUATION OF ABILITIES OF APPLI-  
5 CANT.—In evaluating the ability of an applicant  
6 described in subparagraph (A)(i), the Commis-  
7 sion shall consider whether the financial and  
8 technical capabilities of the applicant are ade-  
9 quate to support construction and operation of  
10 the high-priority national transmission project  
11 proposed in the application.

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

16 “(i) consider whether the facilities  
17 covered by an application are included in  
18 an Interconnection-wide transmission grid  
19 plan for a high-priority national trans-  
20 mission project developed pursuant to sub-  
21 section (c) or constitute a portion of a re-  
22 newable feeder line; and

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

1           “(3) RIGHT OF EMINENT DOMAIN.—

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

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

17                   “(ii) a State court.

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

1           “(4) STATE RECOMMENDATIONS.—In granting  
2 a certificate under paragraph (2), the Commission  
3 shall—

4           “(A) permit State regulatory agencies to  
5 recommend mitigation measures, based on habi-  
6 tat protection, environmental considerations, or  
7 cultural site protection; and

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

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

15           “(I) consult with State regulatory  
16 agencies to seek to resolve the issue;

17           “(II) incorporate as conditions on the  
18 certificate such recommended mitigation  
19 measures as are determined to be appro-  
20 priate by the Commission, based on con-  
21 sultation by the Commission with State  
22 regulatory agencies, the purposes of this  
23 section, and the record before the Commis-  
24 sion; and



1           “(B) FEDERAL AUTHORIZATION.—The  
2           term ‘Federal authorization’ includes such per-  
3           mits, special use authorizations, certifications,  
4           opinions, or other approvals as may be required  
5           under Federal law in order to site a trans-  
6           mission facility.

7           “(2) LEAD AGENCY.—The Commission shall act  
8           as the lead agency for purposes of coordinating all  
9           applicable Federal authorizations and related envi-  
10          ronmental reviews of the facility within an energy  
11          right-of-way corridor on Federal land designated  
12          pursuant to section 368 of the Energy Policy Act of  
13          2005 (42 U.S.C. 15926).

14          “(3) COORDINATION.—To the maximum extent  
15          practicable under applicable Federal law, the Com-  
16          mission shall coordinate the Federal authorization  
17          and review process under this subsection with any  
18          Indian tribes, multistate entities, and State agencies  
19          that are responsible for conducting any separate per-  
20          mitting and environmental reviews of the facility, to  
21          ensure timely and efficient review and permit deci-  
22          sions.

23          “(4) MILESTONES AND DEADLINES.—

24                 “(A) IN GENERAL.—As the lead agency,  
25                 the Commission, in consultation with agencies

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

11 “(B) DEADLINE.—The Commission shall  
12 ensure that, once an application has been sub-  
13 mitted with such data as the Commission and  
14 the Secretaries with jurisdiction over the af-  
15 fected land consider necessary, all permit deci-  
16 sions and related environmental reviews under  
17 all applicable Federal laws shall be completed—

18 “(i) not later than 1 year after the  
19 date of submission; or

20 “(ii) as soon thereafter as is prac-  
21 ticable.

22 “(C) PREAPPLICATION INFORMATION.—  
23 The Commission shall provide an expeditious  
24 preapplication mechanism for prospective appli-  
25 cants to confer with the agencies involved to

1           have each such agency determine and commu-  
2           nicate to the prospective applicant not later  
3           than 60 days after the prospective applicant  
4           submits a request for such information con-  
5           cerning—

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

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

10           “(5) ENVIRONMENTAL REVIEW DOCUMENT.—

11                   “(A) IN GENERAL.—As lead agency, the  
12           Commission, in consultation with affected agen-  
13           cies, shall prepare a single environmental review  
14           document, which shall be used as the basis for  
15           all decisions on the proposed high-priority na-  
16           tional transmission project under Federal law.

17                   “(B) STREAMLINING.—The Commission  
18           and the Secretaries with jurisdiction over the  
19           affected land shall streamline the review and  
20           permitting of transmission within corridors des-  
21           ignated under section 503 of the Federal Land  
22           Policy and Management Act of 1976 (43 U.S.C.  
23           1763) by fully taking into account prior anal-  
24           yses and decisions relating to the corridors.

1           “(C) COMMENTS.—The document shall in-  
2           clude comments made by the Secretaries with  
3           jurisdiction over the affected land on matters  
4           necessary for the protection of the land or re-  
5           quired under applicable law.

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

8           “(A) IN GENERAL.—Subject to subsection  
9           (i)(2), if any agency has denied a Federal au-  
10          thorization required for a transmission facility  
11          within an energy right-of-way corridor on Fed-  
12          eral land designated pursuant to section 368 of  
13          the Energy Policy Act of 2005 (42 U.S.C.  
14          15926), or has failed to act by the deadline es-  
15          tablished by the Commission pursuant to this  
16          section for deciding whether to issue the au-  
17          thorization, the applicant or any State in which  
18          the facility would be located may file an appeal  
19          with the President, who shall, in consultation  
20          with the affected agency, review the denial or  
21          failure to take action on the pending applica-  
22          tion.

23          “(B) OPTIONS.—Based on the overall  
24          record and in consultation with the affected  
25          agency, the President may—

1 “(i) issue the necessary authorization  
2 with any appropriate conditions; or

3 “(ii) deny the application.

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

7 “(D) FEDERAL REQUIREMENTS.—In mak-  
8 ing a decision under this paragraph, the Presi-  
9 dent shall comply with applicable requirements  
10 of Federal law, including any requirements of—

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

13 “(ii) the Endangered Species Act of  
14 1973 (16 U.S.C. 1531 et seq.);

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

17 “(iv) the National Environmental Pol-  
18 icy Act of 1969 (42 U.S.C. 4321 et seq.);

19 and

20 “(v) the Federal Land Policy and  
21 Management Act of 1976 (43 U.S.C. 1701

22 et seq.).

23 “(7) DURATION.—

1           “(A) IN GENERAL.—Each Federal land  
2 use authorization for an electricity transmission  
3 facility shall be issued—

4           “(i) for a duration, as determined by  
5 the Commission, commensurate with the  
6 anticipated use of the facility; and

7           “(ii) with appropriate authority to  
8 manage the right-of-way for reliability and  
9 environmental protection.

10           “(B) RENEWAL.—On the expiration of the  
11 authorization (including an authorization issued  
12 before the date of enactment of the \_\_\_\_\_  
13 Act of 2009), the authorization shall be re-  
14 viewed for renewal—

15           “(i) taking fully into account reliance  
16 on the electricity infrastructure; and

17           “(ii) recognizing the importance of the  
18 authorization for public health, safety, and  
19 economic welfare and as a legitimate use of  
20 Federal land.

21           “(8) CONSULTATION.—In exercising the respon-  
22 sibilities under this section, the Commission shall  
23 consult regularly with—

1           “(A) electric reliability organizations (in-  
2           cluding related regional entities) approved by  
3           the Commission; and

4           “(B) Transmission Organizations approved  
5           by the Commission.

6           “(9) IMPLEMENTATION.—

7           “(A) REGULATIONS.—Not later than 18  
8           months after the date of enactment of the  
9           \_\_\_\_\_ Act of 2009, the Commission shall  
10          issue any regulations necessary to carry out this  
11          subsection.

12          “(B) MEMORANDUM OF UNDER-  
13          STANDING.—

14          “(i) IN GENERAL.—Not later than 1  
15          year after the date of enactment of the  
16          \_\_\_\_\_ Act of 2009, the Commission  
17          and the heads of all Federal agencies with  
18          authority to issue Federal authorizations  
19          shall enter into a memorandum of under-  
20          standing to ensure the timely and coordi-  
21          nated review and permitting of electricity  
22          transmission facilities.

23          “(ii) OPTIONAL PARTICIPATION.—In-  
24          terested Indian tribes, multistate entities,

1                   and State agencies may enter the memo-  
2                   randum of understanding.

3                   “(C) FEDERAL STAFF AND RESOURCES.—

4                   The head of each Federal agency with authority  
5                   to issue a Federal authorization shall designate  
6                   a senior official responsible for, and dedicate  
7                   sufficient other staff and resources to ensure,  
8                   full implementation of the regulations and  
9                   memorandum required under this paragraph.

10                  “(g) EVALUATION AND RECOMMENDATIONS.—The  
11 Commission shall—

12                   “(1) periodically evaluate whether high-priority  
13                   national transmission projects are being constructed  
14                   in accordance with the Interconnection-wide trans-  
15                   mission grid plan for high-priority national trans-  
16                   mission projects for both the Western and Eastern  
17                   Interconnection areas;

18                   “(2) take any necessary actions to address any  
19                   identified obstacles to investment, siting, and con-  
20                   struction of high-priority national transmission  
21                   projects identified as needed under an Interconnec-  
22                   tion-wide plan; and

23                   “(3) not later than 2 years after the date of en-  
24                   actment of the \_\_\_\_\_ Act of 2009, submit to  
25                   Congress recommendations for any further actions

1 or authority needed to ensure the effective and time-  
2 ly development of high-priority national transmission  
3 projects.

4 “(h) COST ALLOCATION.—

5 “(1) IN GENERAL.—Not later than 270 days  
6 after the date of enactment of the \_\_\_\_\_ Act of  
7 2009, the Commission—

8 “(A) shall establish by rule an appropriate  
9 methodology for allocation of the costs of high-  
10 priority national transmission projects, subject  
11 to the requirement that any cost allocation  
12 methodology, and any rates affected by the cost  
13 allocation methodology, shall be just, reason-  
14 able, and not unduly discriminatory or pref-  
15 erential;

16 “(B) may permit allocation of costs for  
17 high-priority national transmission projects to  
18 load-serving entities within all or a part of a re-  
19 gion, except that costs shall not be allocated to  
20 a region, or subregion, that are substantially  
21 disproportionate to reasonably anticipated bene-  
22 fits; and

23 “(C) shall provide for due deference to cost  
24 allocation proposals supported by broad agree-  
25 ment among affected States.

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

5                   “(A) the efficient collection of allocated  
6 costs for development and operation of high-pri-  
7 ority national transmission projects; and

8                   “(B) the distribution of those revenues to  
9 owners of the high-priority national trans-  
10 mission projects.

11           “(i) RELATIONSHIP TO OTHER LAWS.—

12                   “(1) IN GENERAL.—Except as specifically pro-  
13 vided in this section, nothing in this section affects  
14 any requirement of an environmental law of the  
15 United States, including the National Environmental  
16 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

17           “(2) ISSUANCE OR DENIAL OF AUTHORIZATION  
18 BY PRESIDENT.—Subsection (f)(6) shall not apply  
19 to—

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

21                   “(B) a unit of the National Wildlife Ref-  
22 uge System;

23                   “(C) a component of the National Wild  
24 and Scenic Rivers System;

1                   “(D) a component of the National Trails  
2                   System;

3                   “(E) a component of the National Wilder-  
4                   ness;

5                   “(F) a National Monument;

6                   “(G) any part of the National Landscape  
7                   Conservation System;

8                   “(H) a National Preserve;

9                   “(I) a National Scenic Area; or

10                  “(J) a National Recreation Area.

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

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

25                  “(k) APPLICABILITY.—

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

10           “(2) REGIONAL PLANNING ENTITIES.—The  
11           Commission shall have authority over regional plan-  
12           ning entities to the extent necessary to carry out  
13           this section.

14           “(3) PROJECT DEVELOPERS.—Nothing in this  
15           section prevents a project developer from carrying  
16           out a transmission project to enable renewable en-  
17           ergy development if the project developer assumes all  
18           of the risk and cost of the proposed project.

19           “(4) EXCLUSIONS.—This section does not apply  
20           in the State of Alaska or Hawaii or to the Electric  
21           Reliability Council of Texas , unless the State or the  
22           Council voluntarily elects to participate in a cost al-  
23           location plan under this section.”.