

Calendar No. 469

115TH CONGRESS
2D SESSION

S. 186

[Report No. 115–278]

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.

IN THE SENATE OF THE UNITED STATES

JANUARY 23, 2017

Mr. MARKEY (for himself, Ms. WARREN, Mr. WHITEHOUSE, and Mr. REED) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JUNE 18, 2018

Reported by Ms. MURKOWSKI, with an amendment

[Omit the part struck through and insert the part printed in *italic*]

A BILL

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Fair Ratepayer Ac-
3 countability, Transparency, and Efficiency Standards
4 Act” or the “Fair RATES Act”.

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

6 Section 205(d) of the Federal Power Act (16 U.S.C.
7 824d(d)) is amended by adding at the end the following:
8 “Any absence of action by the Commission that allows a
9 change to take effect under this section (including the
10 Commission allowing the 60 days of notice provided under
11 this section to expire without Commission action) shall be
12 considered to be an order issued by the Commission ac-
13 cepting the change for purposes of section 313.”.

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

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

17 “(g) *INACTION OF COMMISSIONERS.*—

18 “(1) *IN GENERAL.*—If the Commission permits
19 the expiration of the 60-day period established under
20 the first sentence of subsection (d) because the mem-
21 bers of the Commission are divided two against two
22 as to the lawfulness of the change, as a result of va-
23 cancy, incapacity, or recusal on the Commission—

24 “(A) the failure to act by the Commission
25 shall be considered to be an order issued by the

1 *Commission accepting the change for purposes of*
2 *section 313(a); and*

3 “(B) *there shall be added to the record of*
4 *the proceeding of the Commission—*

5 “(i) *the proposed order;*

6 “(ii) *notice of the division of the Com-*
7 *missioners with respect to the proposed*
8 *order; and*

9 “(iii) *the written statement of each*
10 *member of the Commission explaining the*
11 *views of the Commissioner with respect to*
12 *the proposed order.*

13 “(2) *APPEAL.—If any party to a proceeding of*
14 *the Commission described in paragraph (1) seeks a*
15 *rehearing under section 313(a) and the Commission*
16 *fails to act on the merits of the rehearing request by*
17 *the date that is 30 days after the date of the rehearing*
18 *request because the members of the Commission are*
19 *divided two against two, as a result of vacancy, inca-*
20 *capacity, or recusal on the Commission, any party that*
21 *sought the rehearing may appeal under section*
22 *313(b).”.*

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