

**AMENDMENT TO THE COMMITTEE PRINT
OFFERED BY MR. TERRY OF NEBRASKA**

In title VI, add at the end the following new section:

1 **SEC. 6003. AUTHORIZATION TO CONSTRUCT AND RECOVER**
2 **COSTS OF INCREMENTAL TRANSFER CAPA-**
3 **BILITY TO FACILITATE RENEWABLE ENERGY**
4 **DEVELOPMENT.**

5 (a) IN GENERAL.—Part II of the Federal Power Act
6 (16 U.S.C. 824 et seq.) is amended by adding after section
7 223 thereof the following new section:

8 **“SEC. 224. AUTHORIZATION TO CONSTRUCT AND RECOVER**
9 **COSTS OF INCREMENTAL TRANSFER CAPA-**
10 **BILITY TO FACILITATE RENEWABLE ENERGY**
11 **DEVELOPMENT AND DEPLOYMENT.**

12 “(a) DEFINITIONS.—For the purposes of this section:

13 “(1) INCREMENTAL TRANSFER CAPABILITY.—

14 The term ‘incremental transfer capability’ means—

15 “(A) the transfer capability of additional
16 electrical transmission circuits primarily within
17 the same right-of-way as core transmission fa-
18 cilities described in subsection (b) and tra-
19 versing substantially all of its length; or

1 “(B) the additional transfer capability that
2 results from installing a transmission line of in-
3 creased voltage in comparison with core trans-
4 mission facilities described in subsection (b).

5 The incremental transfer capability shall equal a
6 minimum of one-third of the transfer capability of
7 the core transmission facilities.

8 “(2) RENEWABLE ENERGY RESOURCES.—The
9 term ‘renewable energy resource’ means solar, wind,
10 ocean, tidal, geothermal energy, biomass, landfill
11 gas, or incremental hydropower.

12 “(3) SECRETARY.—The term ‘Secretary’ means
13 the Secretary of Energy unless otherwise expressly
14 described.

15 “(4) CORE TRANSMISSION FACILITIES.—The
16 term ‘core transmission facilities’ means trans-
17 mission facilities for which a project sponsor has
18 demonstrated financial or regulatory commitments
19 to construct, operate, and maintain, which the
20 project sponsor would construct regardless of Fed-
21 eral incentives, and which has the demonstrated abil-
22 ity to add incremental transfer capability through ei-
23 ther the addition of electrical circuits or increasing
24 the operating voltage of the transmission facilities.

1 “(5) UNCOMMITTED TRANSFER CAPABILITY.—

2 The term ‘uncommitted transfer capability’ means
3 transfer capability, and associated transmission fa-
4 cilities using a pro-rata calculation, which is above
5 the needs demonstrated by the core transmission fa-
6 cilities, that—

7 “(A) are not paid for through long-term
8 transmission service agreements filed with the
9 Commission;

10 “(B) are not allocated through an Open
11 Access Same-Time Information System posting
12 to network customers and recovered via embed-
13 ded transmission rates; or

14 “(C) do not receive payment of their asso-
15 ciated rates via a regional transmission organi-
16 zation’s tariff which is on file with the Commis-
17 sion.

18 “(6) FINANCIAL OR REGULATORY COMMIT-
19 MENT.—The term ‘financial or regulatory commit-
20 ment’ means a commitment via—

21 “(A) transmission service agreements ac-
22 cepted or on file with the Commission;

23 “(B) allocations to network customers
24 posted on Open Access Same-Time Information
25 System; or

1 “(C) a ruling granting full future cost re-
2 covery through a regional transmission organi-
3 zation’s tariff which is on file with the Commis-
4 sion.

5 “(7) PROJECT SPONSOR.—The term ‘project
6 sponsor’ means an entity who proposes to include in-
7 cremental transfer capability as part of a core trans-
8 mission facilities project.

9 “(8) PRO-RATA.—The term ‘pro-rata’ means
10 the incremental transfer capability divided by the
11 total transfer capability of the transmission facili-
12 ties.

13 “(b) AUTHORIZATION TO CONSTRUCT.—Notwith-
14 standing any provision relating to the rates or charges for
15 electric service or transmission of electric energy of this
16 Act or of State law, a project sponsor may construct incre-
17 mental transfer capability to core transmission facilities
18 to increase the ability to transmit electric energy in inter-
19 state commerce, and shall be entitled to collect payment
20 and recover costs of such incremental transfer capability
21 as set forth in subsection (d) if the project sponsor(s) of
22 such incremental transfer capability have filed a cost re-
23 covery plan described in subsection (d) with the Commis-
24 sion, and the Commission finds that the project sponsor
25 has demonstrated the following:

1 “(1) The transmission project constitutes a core
2 transmission facility.

3 “(2) The core transmission facility and incre-
4 mental transfer capability will facilitate development
5 or transmission of electric energy generated from re-
6 newable energy resources to load centers.

7 “(3) The process for seeking approval of siting
8 and construction of the core transmission facilities
9 in the State(s) in which the facilities will be located,
10 or by the Commission pursuant to section 216, but
11 are not yet in operation, has been initiated by the
12 date on which the cost recovery plan is submitted to
13 the Commission for approval.

14 “(4) The core transmission facilities include at
15 least 100 miles of new transmission lines.

16 “(5) The facilities providing the incremental
17 transfer capability will operate at a nominal voltage
18 of 345 kilovolts or greater.

19 “(6) The incremental transfer capability is like-
20 ly to promote the reliable and economically efficient
21 transmission and generation of electricity or reduce
22 transmission congestion.

23 “(7) In the case of a project sponsor that has
24 on file with the Commission and is operating subject
25 to an Open Access Transmission Tariff, the transfer

1 capability of the core transmission facilities, without
2 the incremental transfer capability, is sufficiently
3 committed through transmission service agreements
4 accepted by or on file with the Commission or as al-
5 located to network or native customers pursuant to
6 the project sponsor's Open Access Transmission
7 Tariff.

8 “(8) In the case of a project sponsor that must
9 obtain approval from any regional transmission or-
10 organization (as defined in 16 U.S.C. 796) prior to
11 constructing such facilities, all required approvals
12 from any regional transmission organization for its
13 core transmission facilities have been obtained.

14 “(9) The ability to finance construction of the
15 core transmission facilities absent the incremental
16 transfer capability.

17 “(10) A commitment to undertake all reason-
18 able and prudent efforts to construct the core trans-
19 mission facilities in such a way to provide the incre-
20 mental transfer capability as outlined in their plan
21 if the Commission grants the cost recovery incen-
22 tives for the incremental transfer capability under
23 subsection (d).

24 “(c) AUTHORIZATION TERMINATION.—The author-
25 ization set forth under subsection (b) shall terminate De-

1 cember 31, 2014, provided that the monies deposited into
2 the fund established pursuant to subsection (d) shall re-
3 main available until expended.

4 “(d) COST RECOVERY PLAN.—

5 “(1) IN GENERAL.—As provided for in this sub-
6 section, the Commission shall approve the recovery
7 of costs for incremental transfer capability added to
8 core transmission facilities pursuant to a plan sub-
9 mitted by the project sponsor consistent with the
10 subsection (b) above. Such plan shall include either
11 (A) a proposal for rates and charges for the uncom-
12 mitted transfer capability to be paid annually by the
13 Secretary to the project sponsor for a period of ten
14 years once the transmission facilities are placed in
15 service, or (B) a proposal for the Secretary to pur-
16 chase from the project sponsor and hold the rights
17 to the uncommitted transfer capability on a pro-rata
18 basis based on the final cost of the assets providing
19 the uncommitted transfer capability. Under either
20 option, the project sponsor shall own, operate, and
21 maintain the facilities providing the uncommitted
22 transfer capability.

23 “(2) DIRECT PAYMENT FOR UNCOMMITTED
24 TRANSFER CAPABILITY.—Upon the request of the
25 project sponsor and if approved by the Commission,

1 the Secretary shall pay the project sponsor, on a pro
2 rata basis, for all prudently incurred costs and asso-
3 ciated return on equity of constructing, owning, and
4 operating the uncommitted transfer capability for a
5 period of ten years once the transmission facilities
6 are placed in service. In determining whether rates
7 and charges pursuant to this subsection for use of
8 uncommitted transfer capability are just and reason-
9 able and not unduly discriminatory or preferential,
10 the Commission shall consider the public interest to
11 increase transmission transfer capability to facilitate
12 the development and transmission of renewable en-
13 ergy, and shall account for the cost of constructing
14 the uncommitted transfer capability separately from
15 the cost that would have been incurred to construct
16 the transmission facility without the uncommitted
17 transfer capability using a pro-rata calculation.

18 “(3) DIRECT PURCHASE OF UNCOMMITTED
19 TRANSFER CAPABILITY.—Upon the request of the
20 project sponsor and if approved by the Commission,
21 the Secretary shall purchase from the project spon-
22 sor and hold the rights to the uncommitted transfer
23 capability on a pro-rata basis once the transmission
24 facilities are placed in service. Notwithstanding the
25 foregoing, the Secretary shall not purchase any un-

1 committed transfer capability rights under this sec-
2 tion until the Secretary has deposited into the Re-
3 newable Energy Incremental Transmission Account
4 amounts sufficient to cover the price of such rights
5 as set forth in the plan approved by the Commission.

6 “(4) ACCESS TO UNCOMMITTED TRANSFER CA-
7 PABILITY.—The Commission shall ensure, to the
8 maximum extent practicable, that the project spon-
9 sor and third-party transmission customers that pur-
10 chase or sell renewable energy resources developed
11 and delivered pursuant to this section have equal
12 and preferential access to purchase all or parts of
13 the rights to the uncommitted transfer capability
14 held by the Secretary for a period of ten years, pro-
15 vided that such preference does not have a negative
16 impact on electric reliability. The price at which the
17 Secretary’s rights may be purchased shall equal the
18 amount paid by the Secretary net of accumulated
19 depreciation for the rights plus interest compounded
20 annually at the two-year Treasury note rate, multi-
21 plied by the percentage of the Secretary’s rights to
22 the uncommitted transfer capability of the project
23 being purchased.

24 “(5) REMARKETING UNCOMMITTED TRANSFER
25 CAPABILITY.—In order to minimize Federal Govern-

1 ment outlays and reduce the amount of total uncom-
2 mitted transfer capability still held by the Federal
3 Government at the end of the ten-year reservation
4 period set forth under paragraph (4), the project
5 sponsor shall thereafter post on an Open Access
6 Same Time Information System and remarket the
7 rights to the residual uncommitted transfer capa-
8 bility. The project sponsor shall then repurchase
9 these rights as new long-term transmission service
10 agreements or network commitments are made.
11 Nothing in this paragraph shall be deemed to estab-
12 lish the project sponsor as an agency of the Federal
13 Government.

14 “(e) RENEWABLE ENERGY INCREMENTAL TRANS-
15 MISSION ACCOUNT.—There is established in the Treasury
16 an account known as the Renewable Energy Incremental
17 Transmission Account. The Secretary of the Treasury
18 shall deposit into the fund, without any appropriation
19 therefor, the amount of \$15,000,000,000, as soon as prac-
20 ticable after the effective date of this section or, at the
21 latest, at the beginning of the next fiscal year, October
22 1, 2009. Monies in the fund shall be available to the Sec-
23 retary for expenditure under this part without fiscal year
24 limitation, to remain available until expended. The Sec-
25 retary shall deposit into this account payments by any

1 non-Federal source for the purpose of purchasing uncom-
2 mitted transfer capability rights held by the Secretary.
3 The Secretary may receive and accept payments from any
4 non-Federal source, and amounts deposited into the ac-
5 count, deposited by the Secretary of the Treasury or re-
6 ceived from a non-Federal source, shall be available to the
7 Secretary, without further appropriation, for the purchase
8 of uncommitted transfer capability under this section. The
9 Secretary shall file with Congress annually a report of the
10 Secretary's activities under this section.

11 “(f) FACILITATING RENEWABLE ENERGY RE-
12 SOURCES.—For purposes of satisfying the cost recovery
13 authorization requirements set forth in subsection (b), an
14 incremental transfer capability project facilitates develop-
15 ment or transmission of electric energy generated from re-
16 newable energy resources if it—

17 “(1) is constructed in whole or in part between
18 an electrical load center and an area that has been
19 determined by the Commission to have the potential
20 to generate in excess of one gigawatt of electricity
21 from renewable energy resources;

22 “(2) is consistent with transmission facilities
23 identified as needed in the transmission planning
24 initiatives associated with a regional renewable en-
25 ergy zone identification process which is undertaken

1 with the involvement of State and Federal agencies;
2 or

3 “(3) is consistent with areas which have been
4 identified in a report issued by the Secretary under
5 section 216 as an area in which electric energy
6 transmission transfer capability constraints or con-
7 gestion exists, may be emerging, or could occur if
8 large amounts of renewable generation resources
9 were developed without development of associated in-
10 cremental transfer capability.

11 “(g) RULEMAKING REQUIREMENT.—The Commis-
12 sion shall, by rule(s) promulgated within 90 days of the
13 date of enactment of this section, establish—

14 “(1) appropriate final procedural requirements
15 specifying the process by which a project sponsor
16 shall submit and the Commission shall evaluate the
17 cost recovery plan provided for in this section; and

18 “(2) incentive-based rate treatments for invest-
19 ments in incremental transfer capability projects au-
20 thorized by the Commission under this section that
21 expand the transfer capability of core transmission
22 facilities currently being permitted, sited, or con-
23 structed, beyond their initial planned transfer capa-
24 bility, to accommodate increased future growth of
25 renewable energy. Such incentive treatments shall

1 recognize the scale of investment required, the ex-
2 traordinary financial and non-financial risks and
3 challenges impeding this investment, and the wide-
4 ranging public interest benefits provided by devel-
5 oping such projects. In establishing the appropriate
6 procedural requirements necessary to carry out this
7 subsection, the Commission shall grant such incen-
8 tive rates independently from other incentive rates
9 that the Commission is authorized to provide pursu-
10 ant to section 219.”.

11 (b) BONDS.—There is no private use issue for tax
12 exempt bonds used for renewable energy transmission
13 projects.



