

111TH CONGRESS
2^D SESSION

S. 3487

To amend the Public Utility Regulatory Policies Act of 1978 to provide electric consumers the right to access certain electric energy information, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 15, 2010

Mr. UDALL of Colorado introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Public Utility Regulatory Policies Act of 1978 to provide electric consumers the right to access certain electric energy information, 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 “Electric Consumer
5 Right to Know Act” or the “e-KNOW Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) improving consumers' understanding of
2 electric energy use will help consumers efficiently
3 manage personal energy use;

4 (2) consumers have a right of access to the
5 electric energy information of the consumers;

6 (3) the right to access should be provided based
7 on information requirements rather than dependent
8 on specific technology so that all platforms can com-
9 pete and innovation will be fostered;

10 (4) utilities should provide that usage data
11 based on the best capabilities of the metering tech-
12 nology currently deployed in respective service areas
13 of the utilities or, on upgrade, based on standards
14 recognized by the National Institute of Standards
15 and Technology;

16 (5) consumers should have the ability to access
17 unaudited usage information from sources inde-
18 pendent of the electric meters of the consumers
19 (such as home energy management systems) and
20 from sources independent of the utilities of the con-
21 sumers; and

22 (6) consumers should retain the privacy of the
23 electric energy information of the consumers.

1 **SEC. 3. ELECTRIC CONSUMER RIGHT TO ACCESS ELECTRIC**
 2 **ENERGY INFORMATION.**

3 (a) IN GENERAL.—Title II of the Public Utility Reg-
 4 ulatory Policies Act of 1978 (16 U.S.C. 824 et seq.) is
 5 amended by adding at the end the following:

6 **“SEC. 215. ELECTRIC CONSUMER RIGHT TO ACCESS ELEC-**
 7 **TRIC ENERGY INFORMATION.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) RETAIL ELECTRIC ENERGY INFORMA-
 10 TION.—The term ‘retail electric energy information’
 11 means—

12 “(A) the electric energy consumption of an
 13 electric consumer over a defined time period;
 14 and

15 “(B) the retail electric energy prices or
 16 rates applied to the electricity usage for the de-
 17 fined time period described in subparagraph (A)
 18 for the electric consumer.

19 “(2) SMART METER.—Except as provided in
 20 subsection (e), the term ‘smart meter’ means the
 21 meter used by an electric utility that—

22 “(A)(i) measures electric energy consump-
 23 tion by an electric consumer at the home or fa-
 24 cility of the electric consumer in intervals of 1
 25 hour or less; and

1 “(ii) is capable of sending electric energy
2 usage information through a communications
3 network to the electric utility; or

4 “(B) meets the guidelines issued under
5 subsection (h).

6 “(b) CONSUMER RIGHT.—

7 “(1) IN GENERAL.—Each electric consumer in
8 the United States shall have the right to access (and
9 to authorize 1 or more third parties to access) retail
10 electric energy information of the electric consumer
11 in an electronic form, in conformity with nationally
12 recognized open standards, free of charge, and in a
13 manner that is timely and convenient and that pro-
14 vides adequate protections for the security of the in-
15 formation and the privacy of the electric consumer.

16 “(2) PROVIDER OF INFORMATION.—The infor-
17 mation shall be provided by the retail electricity pro-
18 vider of the consumer or such other entity as may
19 be designated by the authority responsible for regu-
20 lating the retail sale and delivery of electricity to the
21 consumer.

22 “(c) INFORMATION.—The right to access retail elec-
23 tric energy information under subsection (b) includes, at
24 a minimum—

1 “(1)(A) in the case of an electric consumer that
2 is served by a smart meter, the right to access retail
3 electric energy information—

4 “(i) in machine readable form, not more
5 than 24 hours after consumption has been re-
6 corded; or

7 “(ii) in accordance with the guidelines
8 issued under subsection (h); or

9 “(B) in the case of an electric consumer that is
10 not served by a smart meter, the right to access re-
11 tail electric energy information in machine readable
12 form as expeditiously after the time of collection as
13 is reasonably practicable and as prescribed by the
14 entity with jurisdiction over metering and retail elec-
15 tric service of the consumer; and

16 “(2) except as otherwise provided in subsection
17 (d)—

18 “(A) in the case of an electric consumer
19 that is served by a smart meter, data at a gran-
20 ularity that is—

21 “(i) not less granular than the inter-
22 vals at which the data is recorded and
23 stored by the meter in use at the premise
24 of the electric consumer; or

1 “(ii) in accordance with the guidelines
2 issued under subsection (h);

3 “(B) in the case of an electric consumer
4 that is not served by a smart meter, data at
5 granularity equal to the data used for billing
6 the electric consumer, or as prescribed by the
7 entity with jurisdiction over metering and retail
8 electric service for the electric consumer.

9 “(d) RETENTION.—An electric consumer shall have
10 the right to access the retail electric energy information
11 of the consumer, through the website of the retail electric
12 provider or other electronic access authorized by the elec-
13 tric consumer, for a period of at least 13 months after
14 the date on which the data is recorded, unless a different
15 period is prescribed by the entity with jurisdiction over
16 metering and retail electric service for the customer.

17 “(e) DIRECT METER ACCESS.—In the case of an elec-
18 tric consumer that is served by a smart meter capable of
19 communicating energy usage information to a device or
20 network of an electric consumer or a device or network
21 of a third party authorized by the consumer, the consumer
22 shall, at a minimum, have the right to access (and to au-
23 thorize 1 or more third parties to access) usage informa-
24 tion in read-only format directly from the smart meter if
25 access does not interfere with or compromise the integrity,

1 security, or privacy of the operations of a utility and the
2 electric consumer, in accordance with the guidelines issued
3 by the Commission under subsection (h).

4 “(f) COST RECOVERY.—A utility providing retail
5 electric energy information in accordance with otherwise
6 applicable regulation of rates for the retail sale and deliv-
7 ery of electricity may recover in rates the cost of providing
8 the information, if the cost is determined reasonable and
9 prudent by the entity with jurisdiction over metering and
10 retail electric service for the consumer.

11 “(g) ADDITIONAL AVAILABLE INFORMATION.—The
12 right to access electric energy information shall extend to
13 usage information generated by devices in or on the prop-
14 erty of the consumer that is transmitted to the retail elec-
15 tric provider.

16 “(h) GUIDELINES FOR ELECTRIC CONSUMER AC-
17 CESS.—

18 “(1) IN GENERAL.—Not later than 180 days
19 after the date of enactment of this section, the Com-
20 mission shall (after consultation with State and local
21 regulatory authorities, including the National Asso-
22 ciation of Regulatory Utility Commissioners, the
23 Secretary of Energy, other appropriate Federal
24 agencies, including the National Institute of Stand-
25 ards and Technology, consumer advocacy groups,

1 utilities, and other appropriate entities, and after
2 notice and opportunity for comment) issue guidelines
3 that establish minimum national standards for im-
4 plementation of the electric consumer right to access
5 retail electric energy information under subsection
6 (b).

7 “(2) STATE AND LOCAL REGULATORY AC-
8 TION.—In issuing the guidelines, the Commission
9 shall, to the maximum extent practicable, preserve
10 the integrity of and be guided by actions taken by
11 State and local regulatory authorities to ensure elec-
12 tric consumer access to retail electric energy infor-
13 mation, including actions taken after consideration
14 of the standard under section 111(d)(17).

15 “(3) CONTENT.—The guidelines shall provide
16 guidance on issues necessary to carry out this sec-
17 tion, including—

18 “(A) the timeliness and granularity of re-
19 tail electric energy information;

20 “(B) appropriate nationally recognized
21 open standards for data;

22 “(C) definitions of the terms ‘smart me-
23 ters’ and ‘near real-time’; and

1 “(D) protection of data security and elec-
2 tric consumer privacy, including consumer con-
3 sent requirements.

4 “(4) REVISIONS.—The Commission shall peri-
5 odically review and, as necessary, revise the guide-
6 lines to reflect changes in technology and the market
7 for electric energy and services.

8 “(i) ENFORCEMENT.—

9 “(1) ENFORCEMENT BY STATE ATTORNEYS
10 GENERAL.—If the attorney general of a State, or
11 another official or agency of a State with competent
12 authority under State law, has reason to believe that
13 any electric utility that delivers electric energy at re-
14 tail in the relevant State is not complying with the
15 minimum standards established by the guidelines
16 under subsection (h), the attorney general, official,
17 or agency of the State, as *parens patriae*, may bring
18 a civil action against the electric utility, on behalf of
19 the electric consumers receiving retail service from
20 the electric utility, in a district court of the United
21 States of appropriate jurisdiction, to compel compli-
22 ance with the standards.

23 “(2) SAFE HARBOR.—

24 “(A) IN GENERAL.—No civil action may be
25 brought against an electric utility under para-

1 graph (1) if the Commission has, during the 2-
2 year period ending on the date of the deter-
3 mination, determined that the electric utility, or
4 the regulatory authority that regulates the elec-
5 tric utility, adopted and implemented policies,
6 requirements, and measures, as necessary, that
7 comply with the standards established by the
8 guidelines under subsection (h).

9 “(B) PROCEDURES.—The Commission
10 shall establish procedures to review the policies,
11 requirements, and measures of State regulatory
12 authorities and electric utilities to assess, and
13 issue determinations with regard to, compliance
14 with the standards.

15 “(3) EFFECTIVE DATE.—This subsection takes
16 effect on the date that is 2 years after the date the
17 guidelines under subsection (h) are issued.”.

18 (b) CONFORMING AMENDMENT.—The table of con-
19 tents for the Public Utility Regulatory Policies Act of
20 1978 is amended by adding at the end of the items relat-
21 ing to title II the following:

“Sec. 215. Electric consumer right to access electric energy information.”.

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