

117TH CONGRESS  
1ST SESSION

# S. 2318

To amend the Public Utility Regulatory Policies Act of 1978 to require the consideration of a standard for promoting the use of demand-response technology and practices, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 13, 2021

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

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## A BILL

To amend the Public Utility Regulatory Policies Act of 1978 to require the consideration of a standard for promoting the use of demand-response technology and practices, 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 “Demand-Response  
5 Management Act of 2021”.

1 **SEC. 2. PURPOSE.**

2       The purpose of this Act is to promote the use of de-  
3 mand-response technology and practices that support grid  
4 resiliency and reliability during extreme weather events.

5 **SEC. 3. PROMOTION OF DEMAND-RESPONSE PRACTICES.**

6       (a) CONSIDERATION OF DEMAND-RESPONSE STAND-  
7 ARD.—

8           (1) IN GENERAL.—Section 111(d) of the Public  
9 Utility Regulatory Policies Act of 1978 (16 U.S.C.  
10 2621(d)) is amended by adding at the end the fol-  
11 lowing:

12           “(20) DEMAND-RESPONSE PRACTICES.—

13           “(A) IN GENERAL.—Each electric utility  
14 shall promote the use of demand-response prac-  
15 tices by commercial, residential, and industrial  
16 consumers to reduce electricity consumption  
17 during periods of unusually high demand.

18           “(B) RATE RECOVERY.—

19           “(i) IN GENERAL.—Each State regu-  
20 latory authority shall consider establishing  
21 rate mechanisms allowing an electric utility  
22 with respect to which the State regulatory  
23 authority has ratemaking authority to  
24 timely recover the costs of promoting de-  
25 mand-response practices in accordance  
26 with subparagraph (A).

1 “(ii) NONREGULATED ELECTRIC UTIL-  
 2 ITIES.—A nonregulated electric utility may  
 3 establish rate mechanisms for the timely  
 4 recovery of the costs of promoting demand-  
 5 response practices in accordance with sub-  
 6 paragraph (A).”.

7 (2) COMPLIANCE.—

8 (A) TIME LIMITATIONS.—Section 112(b)  
 9 of the Public Utility Regulatory Policies Act of  
 10 1978 (16 U.S.C. 2622(b)) is amended by add-  
 11 ing at the end the following:

12 “(7)(A) Not later than 1 year after the date of  
 13 enactment of this paragraph, each State regulatory  
 14 authority (with respect to each electric utility for  
 15 which the State has ratemaking authority) and each  
 16 nonregulated electric utility shall commence consid-  
 17 eration under section 111, or set a hearing date for  
 18 consideration, with respect to the standard estab-  
 19 lished by paragraph (20) of section 111(d).

20 “(B) Not later than 2 years after the date of  
 21 enactment of this paragraph, each State regulatory  
 22 authority (with respect to each electric utility for  
 23 which the State has ratemaking authority), and each  
 24 nonregulated electric utility shall complete the con-  
 25 sideration and make the determination under section

1 111 with respect to the standard established by  
 2 paragraph (20) of section 111(d).”.

3 (B) FAILURE TO COMPLY.—

4 (i) IN GENERAL.—Section 112(c) of  
 5 the Public Utility Regulatory Policies Act  
 6 of 1978 (16 U.S.C. 2622(c)) is amended—

7 (I) by striking “such paragraph  
 8 (14)” and all that follows through  
 9 “paragraphs (16)” and inserting  
 10 “such paragraph (14). In the case of  
 11 the standard established by paragraph  
 12 (15) of section 111(d), the reference  
 13 contained in this subsection to the  
 14 date of enactment of this Act shall be  
 15 deemed to be a reference to the date  
 16 of enactment of that paragraph (15).  
 17 In the case of the standards estab-  
 18 lished by paragraphs (16)”;

19 (II) by adding at the end the fol-  
 20 lowing: “In the case of the standard  
 21 established by paragraph (20) of sec-  
 22 tion 111(d), the reference contained in  
 23 this subsection to the date of enact-  
 24 ment of this Act shall be deemed to be

1 a reference to the date of enactment  
 2 of that paragraph (20).”.

3 (ii) TECHNICAL CORRECTION.—Para-  
 4 graph (2) of section 1254(b) of the Energy  
 5 Policy Act of 2005 (Public Law 109–58;  
 6 119 Stat. 971) is repealed and the amend-  
 7 ment made by that paragraph (as in effect  
 8 on the day before the date of enactment of  
 9 this Act) is void, and section 112(d) of the  
 10 Public Utility Regulatory Policies Act of  
 11 1978 (16 U.S.C. 2622(d)) shall be in ef-  
 12 fect as if that amendment had not been en-  
 13 acted.

14 (C) PRIOR STATE ACTIONS.—

15 (i) IN GENERAL.—Section 112 of the  
 16 Public Utility Regulatory Policies Act of  
 17 1978 (16 U.S.C. 2622) is amended by add-  
 18 ing at the end the following:

19 “(g) PRIOR STATE ACTIONS.—Subsections (b) and  
 20 (c) shall not apply to the standard established by para-  
 21 graph (20) of section 111(d) in the case of any electric  
 22 utility in a State if, before the date of enactment of this  
 23 subsection—

24 “(1) the State has implemented for the electric  
 25 utility the standard (or a comparable standard);

1           “(2) the State regulatory authority for the  
 2           State or the relevant nonregulated electric utility has  
 3           conducted a proceeding to consider implementation  
 4           of the standard (or a comparable standard) for the  
 5           electric utility; or

6           “(3) the State legislature has voted on the im-  
 7           plementation of the standard (or a comparable  
 8           standard) for the electric utility.”.

9                       (ii) CROSS-REFERENCE.—Section 124  
 10                      of the Public Utility Regulatory Policies  
 11                      Act of 1978 (16 U.S.C. 2634) is amend-  
 12                      ed—

13                      (I) by striking “this subsection”  
 14                      each place it appears and inserting  
 15                      “this section”; and

16                      (II) by adding at the end the fol-  
 17                      lowing: “In the case of the standard  
 18                      established by paragraph (20) of sec-  
 19                      tion 111(d), the reference contained in  
 20                      this section to the date of enactment  
 21                      of this Act shall be deemed to be a  
 22                      reference to the date of enactment of  
 23                      that paragraph (20).”.

1 (b) OPTIONAL FEATURES OF STATE ENERGY CON-  
 2 SERVATION PLANS.—Section 362(d) of the Energy Policy  
 3 and Conservation Act (42 U.S.C. 6322(d)) is amended—

4 (1) in paragraph (16), by striking “and” at the  
 5 end;

6 (2) by redesignating paragraph (17) as para-  
 7 graph (18); and

8 (3) by inserting after paragraph (16) the fol-  
 9 lowing:

10 “(17) programs that promote the installation  
 11 and use of demand-response technology and de-  
 12 mand-response practices; and”.

13 (c) FEDERAL ENERGY MANAGEMENT PROGRAM.—  
 14 Section 543(i) of the National Energy Conservation Policy  
 15 Act (42 U.S.C. 8253(i)) is amended—

16 (1) in paragraph (1)—

17 (A) in subparagraph (A), by striking  
 18 “and” at the end;

19 (B) in subparagraph (B), by striking the  
 20 period at the end and inserting “; and”; and

21 (C) by adding at the end the following:

22 “(C) to reduce energy consumption during  
 23 periods of unusually high electricity or natural  
 24 gas demand.”; and

25 (2) in paragraph (3)(A)—

1 (A) in clause (v), by striking “and” at the  
2 end;

3 (B) in clause (vi), by striking the period at  
4 the end and inserting “; and”; and

5 (C) by adding at the end the following:

6 “(vii) promote the installation of de-  
7 mand-response technology and the use of  
8 demand-response practices in Federal  
9 buildings.”.

10 (d) COMPONENTS OF ZERO-NET-ENERGY COMMER-  
11 CIAL BUILDINGS INITIATIVE.—Section 422(d)(3) of the  
12 Energy Independence and Security Act of 2007 (42  
13 U.S.C. 17082(d)) is amended by inserting “(including de-  
14 mand-response technologies, practices, and policies)” after  
15 “policies”.

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