
PROTECT Act Seeks to Bolster Domestic Electric Grid Cybersecurity: McGuireWoods

On Sept. 26, 2019, the Protecting Resources on the Electric Grid with Cybersecurity Technology (PROTECT) Act was introduced in the Senate. An amendment to the Federal Power Act, the PROTECT Act aims to more effectively safeguard and defend the U.S. electric grid from global cyber intruders.

Sponsored by Sen. Lisa Murkowski (R-Alaska), chair of the Committee on Energy and Natural Resources, and introduced by Sens. Joe Manchin (D-W.V.), James Risch (R-Idaho), Maria Cantwell (D-Wash.) and Angus King (I-Maine), the bill is a response to increasing cyberattacks by foreign adversaries and entities on the U.S. electric grid. Some Washington observers believe that, with such bipartisan support, the PROTECT Act is one of the few legislative initiatives that could pass Congress. It may therefore result in a number of important benefits to the U.S. electricity industry.

Key provisions of the PROTECT Act involve tangible, actionable steps to expand the national grid cybersecurity effort. Of particular importance, the PROTECT Act directs the Federal Energy Regulatory Commission (FERC) to conduct a study, followed by rulemaking to provide rate incentives for advanced cybersecurity technology that will enable and incentivize utilities to invest in new technologies to improve cybersecurity defense. Also, the new rule must allow utilities to make "single issue rate filings," which should enable them to obtain the incentives without risk of opening up litigation on all other aspects of their FERC-approved rates. In addition, the PROTECT Act sets forth a Department of Energy grant program for utilities not regulated by FERC, such as electric cooperatives and municipal utilities, to incentivize in those sectors advanced tactics in cybersecurity technology.

The bill is a common-sense measure. It helps further safeguard utilities across the country by supporting the industry in continuously investing in cutting-edge cybersecurity technologies. In addition, it likely would further cultivate the expanding partnership between private industry and the federal government. Although many of the investment expenses and economic incentives likely will be passed on to end users, the bill preserves the protections of the Federal Power Act's requirement that such rates be "just and reasonable." So, it is a win-win opportunity for both utilities and the customers they serve, who ultimately benefit from the enhanced security the bill might produce.

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