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

IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 2010

Mr. MARKEY of Massachusetts introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Electric Consumer Right to Know Act” or the “e-KNOW Act”.

SEC. 2. ELECTRIC CONSUMER RIGHT TO ACCESS ELECTRIC ENERGY INFORMATION.

(a) Electric Consumer Right of Access.—Title II of the Public Utility Regulatory Policies Act of 1978

is amended by adding after section 214 the following new section:

“SEC. 215. ELECTRIC CONSUMER RIGHT TO ACCESS ELECTRIC ENERGY INFORMATION.

“(a) ELECTRIC CONSUMER RIGHT TO ELECTRIC ENERGY INFORMATION.—

“(1) IN GENERAL.—Each electric consumer in the United States shall have the right to access (and to authorize 1 or more third parties to access) the retail electric energy information of such electric consumer in electronic machine-readable form, in conformity with nationally recognized open standards, free of charge, and in a manner that is timely and convenient and that provides adequate protections for the security of such information and the privacy of such electric consumer.

“(2) DEFINITIONS.—For purposes of this section:

“(A) RETAIL ELECTRIC ENERGY INFORMATION.—The term ‘retail electric energy information’ means the following:

“(i) USAGE INFORMATION.—An electric consumer’s electric energy consumption over a defined time period, including information on consumption during not
less than the 24 months prior to the date of access of such information by such electric consumer.

“(ii) PRICING INFORMATION.—Time-based retail electric energy prices applied to the electric consumer.

“(B) SMART METER.—The term ‘smart meter’ means a meter installed by the electric utility that delivers electric energy to an electric consumer at the home or facility of such electric consumer that measures electric energy usage and is capable of communicating electric energy usage information by means of an electronic machine-readable signal in real time or near real time.

“(3) TIMELINESS AND GRANULARITY.—The right to access retail electric energy information under paragraph (1) includes, at a minimum, the right to access retail electric energy information—

“(A)(i) in real time or near real time, for electric consumers served by a smart meter; and

“(ii) as expeditiously after the time of collection as reasonably feasible for electric consumers not served by a smart meter; and
“(B) except as otherwise provided in paragraph (4), data at intervals—

“(i) not greater than 15 minutes for electric consumers served by a smart meter; and

“(ii) not less frequent than the intervals at which such data is collected by the electric utility providing retail service, for electric consumers not served by a smart meter.

“(4) RETENTION.—The data interval requirements in paragraph (3)(B) shall not apply to usage data after a period of 24 months from the date such data is recorded.

“(b) GUIDELINES FOR ELECTRIC CONSUMER ACCESS.—Not later than 180 days after the date of the enactment of this section, the Commission shall, after consultation with State regulatory authorities, the Secretary of Energy, and other appropriate Federal agencies, and after notice and opportunity for comment, issue guidelines identifying minimum national standards for implementation of the electric consumer right to access retail electric energy information under subsection (a)(1). In formulating such guidelines, the Commission shall, to the extent practicable, preserve the integrity of and be guided by ac-
tions already taken by State regulatory authorities to en-
sure electric consumer access to retail electric energy in-
formation, including actions taken after consideration of
the standard under section 111(d)(17). Such guidelines
shall provide guidance on issues including the timeliness
and granularity of retail electric energy information, ap-
propriate nationally recognized open standards for data,
and protection of data security and electric consumer pri-
vacy. The Commission shall periodically review and, as
necessary revise, such guidelines to reflect changes in tech-
nology and the market for electric energy and services.

“(c) Enforcement.—

“(1) Effective date.—This subsection shall
be effective on the date that is 1 year after the date
the guidelines under subsection (b) are issued.

“(2) Enforcement by state attorneys
general.—If the attorney general of a State, or
another official or agency of a State with competent
authority under State law, has reason to believe that
any electric utility that delivers electric energy at re-
tail in the relevant State is not complying with the
minimum standards identified by the guidelines
issued under subsection (b), the attorney general, of-
ficial, or agency of the State, as parens patriae, may
bring a civil action against such electric utility, on
behalf of the electric consumers receiving retail service from such electric utility, in a district court of the United States of appropriate jurisdiction, to compel compliance with such standards.

“(3) ELECTRIC CONSUMER ENFORCEMENT.— Provided no civil action has been brought under paragraph (2), any electric consumer may bring a civil action against the electric utility providing retail electric service to such electric consumer, in a district court of the United States of appropriate jurisdiction, to compel compliance with the minimum standards identified by the guidelines issued under subsection (b).

“(4) COSTS AND FEES.—In any civil action under paragraph (2) or (3), if the party bringing the action is successful in enforcing the standards identified by the guidelines issued under subsection (b), the court may award to such party the costs of the action together with reasonable attorney’s fees, as determined by the court.

“(5) SAFE HARBOR.—No civil action may be brought against an electric utility under paragraph (2) or paragraph (3) if the Commission has, within the most recent 2 years, determined that such electric utility, or the State regulatory authority that
regulates such electric utility, has adopted and implemented policies, requirements, and measures, as necessary, that comply with the standards identified by the guidelines issued under subsection (b). The Commission shall establish procedures to review the policies, requirements, and measures of State regulatory authorities and electric utilities to assess, and issue determinations with regard to, compliance with such standards.”.

(b) Conforming Amendment.—The table of contents for the Public Utility Regulatory Policies Act of 1978 is amended by adding after the item relating to section 214 the following new item:

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