

105TH CONGRESS
2D SESSION

S. 2381

To provide that no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978.

IN THE SENATE OF THE UNITED STATES

JULY 30, 1998

Mr. MACK (for himself and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide that no electric utility shall be required to enter into a new contract or obligation to purchase or to sell electricity or capacity under section 210 of the Public Utility Regulatory Policies Act of 1978.

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 “Transition to Competi-
5 tion in the Electric Industry Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1 (1) implementation of section 210 of the Public
 2 Utility Regulatory Policies Act of 1978 (16 U.S.C.
 3 824a–3) resulted in many consumers paying exces-
 4 sive rates for electricity;

5 (2) amendments made by title VII of the En-
 6 ergy Policy Act of 1992 (106 Stat. 2905) give non-
 7 regulated producers of electricity additional access to
 8 the wholesale electric market through transmission
 9 access and exemption from the Public Utility Hold-
 10 ing Company Act of 1935 (15 U.S.C. 79 et seq.);
 11 and

12 (3) in light of the competitive wholesale electric
 13 marketplace brought about by the Energy Policy Act
 14 of 1992, section 210 of the Public Utility Regulatory
 15 Policies Act of 1978 need no longer be in effect.

16 **SEC. 3. DEFINITIONS.**

17 In this Act:

18 (1) COMMISSION.—The term “Commission”
 19 means the Federal Energy Regulatory Commission.

20 (2) ELECTRIC UTILITY.—The term “electric
 21 utility” means a person, State agency, or Federal
 22 agency that sells electricity.

23 (3) QUALIFYING COGENERATION FACILITY.—
 24 The term “qualifying cogeneration facility” has the

1 meaning given the term in section 3 of the Federal
 2 Power Act (16 U.S.C. 796).

3 (4) QUALIFYING FACILITY.—The term “qualify-
 4 ing facility” means—

5 (A) a qualifying small power production fa-
 6 cility; and

7 (B) a qualifying cogeneration facility.

8 (5) QUALIFYING SMALL POWER PRODUCTION
 9 FACILITY.—The term “qualifying small power pro-
 10 duction facility” has the meaning given the term in
 11 section 3 of the Federal Power Act (16 U.S.C. 796).

12 **SEC. 4. PROSPECTIVE REPEAL.**

13 (a) NEW CONTRACTS.—No electric utility shall be re-
 14 quired to enter into a new contract or obligation to pur-
 15 chase or to sell electricity or capacity under section 210
 16 of the Public Utility Regulatory Policies Act of 1978 (16
 17 U.S.C. 824a–3).

18 (b) EXISTING RIGHTS AND REMEDIES.—Nothing in
 19 this section affects the rights or remedies of any party
 20 with respect to the purchase or sale of electricity or capac-
 21 ity from or to a facility determined to be a qualifying small
 22 power production facility or a qualifying cogeneration fa-
 23 cility under section 210 of the Public Utility Regulatory
 24 Policies Act of 1978 (16 U.S.C. 824a–3) under any con-
 25 tract or obligation to purchase or to sell electricity or ca-

1 capacity in effect on the date of enactment of this Act, in-
 2 cluding the right to recover the costs of purchasing the
 3 electricity or capacity.

4 (c) INTERPRETATIONS AND ACTIONS TAKEN.—Noth-
 5 ing in this Act implies congressional ratification of any
 6 interpretation of, or any action taken under, the Public
 7 Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601
 8 et seq.).

9 **SEC. 5. RECOVERY OF COSTS.**

10 (a) REGULATION.—To ensure recovery, by any elec-
 11 tric utility that purchases electricity or capacity from a
 12 qualifying facility pursuant to any legally enforceable obli-
 13 gation entered into or imposed under section 210 of the
 14 Public Utility Regulatory Policies Act of 1978 (16 U.S.C.
 15 824a–3) before the date of enactment of this Act, of all
 16 costs associated with the purchases, the Commission shall
 17 promulgate and enforce such regulations as are required
 18 to ensure that no utility shall be required directly or indi-
 19 rectly to absorb the costs associated with the purchases.

20 (b) TREATMENT.—A regulation under subsection (a)
 21 shall be treated as a rule enforceable under the Federal
 22 Power Act (16 U.S.C. 791a et seq.).

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