

106TH CONGRESS  
1ST SESSION

# H. R. 1138

To prospectively repeal section 210 of the Public Utility Regulatory Policies Act of 1978.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 16, 1999

Mr. STEARNS (for himself, Mr. TOWNS, Mr. HOUGHTON, Mr. ENGLISH, Mr. MURTHA, Mr. BILBRAY, Mr. PETERSON of Pennsylvania, Mr. BOEHLERT, Ms. DUNN, Mr. PACKARD, Mr. BOYD, Mr. LEWIS of California, Mr. MICA, and Mrs. THURMAN) introduced the following bill; which was referred to the Committee on Commerce

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## A BILL

To prospectively repeal 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 “Ratepayer Protection  
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) implementation of section 210 of the Public  
9 Utility Regulatory Policies Act of 1978 (16 U.S.C.

1       824a–3) resulted in many consumers paying exces-  
2       sive rates for electricity;

3           (2) the Energy Policy Act of 1992 gives non-  
4       regulated producers of electricity additional access to  
5       the wholesale electric market through transmission  
6       access and exemption from the Public Utility Hold-  
7       ing Company Act of 1935; and

8           (3) in light of the competitive wholesale electric  
9       marketplace brought about by the Energy Policy Act  
10      of 1992, section 210 of the Public Utility Regulatory  
11      Policies Act of 1978 need no longer exist.

12   **SEC. 3. PROSPECTIVE REPEAL.**

13      (a) NEW CONTRACTS.—After the date of enactment  
14      of this Act, no electric utility shall be required to enter  
15      into a new contract or obligation to purchase or to sell  
16      electric energy or capacity pursuant to section 210 of the  
17      Public Utility Regulatory Policies Act of 1978.

18      (b) EXISTING RIGHTS AND REMEDIES NOT AF-  
19      FECTED.—Nothing in this section affects the rights or  
20      remedies of any party with respect to the purchase or sale  
21      of electric energy or capacity from or to a facility deter-  
22      mined to be a qualifying small power production facility  
23      or a qualifying cogeneration facility under section 210 of  
24      the Public Utility Regulatory Policies Act of 1978 pursu-  
25      ant to any contract or obligation to purchase or to sell

1 electric energy or capacity in effect on January 6, 1999,  
2 including the right to recover the costs of purchasing such  
3 electric energy or capacity.

4 (c) INTERPRETATIONS AND ACTIONS TAKEN.—Noth-  
5 ing in this Act may be deemed or construed as implying  
6 congressional ratification of any interpretation of, or any  
7 action taken pursuant to, the Public Utility Regulatory  
8 Policies Act of 1978.

9 **SEC. 4. RECOVERY OF COSTS.**

10 In order to assure recovery by electric utilities pur-  
11 chasing electric energy or capacity from a qualifying facil-  
12 ity pursuant to any legally enforceable obligation entered  
13 into or imposed pursuant to section 210 of the Public Util-  
14 ity Regulatory Policies Act of 1978 prior to the date of  
15 enactment of this Act of all costs associated with such pur-  
16 chases, the Commission shall promulgate and enforce such  
17 regulations as may be required to assure that no utility  
18 shall be required directly or indirectly to absorb the costs  
19 associated with such purchases from a qualifying facility.  
20 Such regulations shall be treated as a rule enforceable  
21 under the Federal Power Act (16 U.S.C. 791a–825r).

22 **SEC. 5. DEFINITIONS.**

23 For purposes of this Act—

24 (1) the term “Commission” means the Federal  
25 Energy Regulatory Commission;

1           (2) the term “electric utility” means any per-  
2       son, State agency, or Federal agency, which sells  
3       electric energy;

4           (3) the term “qualifying small power production  
5       facility” has the same meaning as provided in sec-  
6       tion 3(17)(C) of the Federal Power Act;

7           (4) the term “qualifying cogeneration facility”  
8       has the same meaning as provided in section  
9       3(18)(A) of the Federal Power Act; and

10          (5) the term “qualifying facility” means either  
11       a small power production facility or a qualifying co-  
12       generation facility.

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