

106TH CONGRESS
1ST SESSION

S. 1047

To provide for a more competitive electric power industry, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 13, 1999

Mr. MURKOWSKI (for himself and Mr. BINGAMAN) (by request) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for a more competitive electric power industry,
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 “Comprehensive Elec-
5 tricity Competition Act”.

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1 **TITLE I—RETAIL ELECTRIC**
 2 **SERVICE**

3 **SEC. 101. RETAIL COMPETITION.**

4 (a) RETAIL COMPETITION.—The Public Utility Regu-
 5 latory Policies Act of 1978 (referred to in this Act as
 6 PURPA) is amended by adding after section 608 the fol-
 7 lowing new section:

8 **“SEC. 609. RETAIL COMPETITION.**

9 “(a) DEFINITIONS.—For purposes of this section,
 10 ‘retail stranded costs’ means the amount of net costs in-
 11 curred or obligations undertaken before the date of the

1 enactment of the Comprehensive Electricity Competition
2 Act by a distribution utility that—

3 “(1) were incurred or undertaken by that dis-
4 tribution utility in order to comply with a legal obli-
5 gation on that utility to provide electricity to electric
6 consumers in its service territory, and

7 “(2) cannot be recovered because of implemen-
8 tation of retail competition under subsection (b).

9 “(b) RETAIL COMPETITION REQUIREMENT.—Except
10 as provided in subsection (c), not later than January 1,
11 2003, any distribution utility that has the capability to
12 deliver electric energy to an electric consumer over its fa-
13 cilities shall offer open access to those facilities for the
14 sale of electric energy to the consumer and shall do so
15 at rates, terms, and conditions that are not unduly dis-
16 criminatory or preferential, as determined by the appro-
17 priate regulatory authority.

18 “(c) OPT OUT.—(1) A State regulatory authority
19 (with respect to a distribution utility for which it has rate-
20 making authority) may direct a distribution utility not to
21 implement the retail competition requirement described in
22 subsection (b) if the State regulatory authority finds, after
23 notice and opportunity for hearing, that implementation
24 of the retail competition requirement by the distribution

1 utility will have a negative impact on a class of customers
2 of that utility that cannot be mitigated.

3 “(2) A nonregulated distribution utility may deter-
4 mine not to implement the retail competition requirement
5 described in subsection (b) if it finds, after notice and op-
6 portunity for hearing, that implementation of the retail
7 competition requirement by the distribution utility will
8 have a negative impact on a class of customers of that
9 utility that cannot be mitigated.

10 “(3) The State regulatory authority (with respect to
11 a distribution utility for which it has ratemaking author-
12 ity) or nonregulated distribution utility shall publish the
13 determination and its basis and shall file a notice with
14 the Commission of its determination by January 1, 2002.

15 “(d) NOTICE OF RETAIL COMPETITION.—A State
16 regulatory authority (with respect to a distribution utility
17 for which it has ratemaking authority) or nonregulated
18 distribution utility shall file with the Commission a notice
19 that the distribution utility has implemented or will imple-
20 ment retail competition consistent with subsection (b).
21 The notice shall describe the implementation of retail com-
22 petition. The notice is effective for purposes of section
23 118, 119, 119A, and 119B of this Act and sections
24 212(h), 216, and 217 of the Federal Power Act on the
25 date the notice is filed or the date of implementation of

1 retail competition consistent with subsection (b) whichever
2 is later.

3 “(e) CONSIDERATION OF RECOVERY OF RETAIL
4 STRANDED COSTS.—(1) If a State regulatory authority or
5 nonregulated distribution utility conducts a public pro-
6 ceeding before a distribution utility implements retail com-
7 petition as required under subsection (b), as part of this
8 proceeding, the State regulatory authority or nonregulated
9 distribution utility shall consider the appropriate mecha-
10 nism to address recovery by a distribution utility for which
11 it has ratemaking authority of retail stranded costs that
12 are legitimate, prudent, and verifiable, if the utility has
13 taken all reasonable steps to mitigate the costs, including
14 assistance for workers who are employed or were most re-
15 cently employed by an electric utility and who may become
16 or have become unemployed as a result of the implementa-
17 tion of retail competition. A charge imposed for purposes
18 of recovering retail stranded costs or providing assistance
19 for unemployed workers should be imposed in a manner
20 so as to minimize to the fullest extent possible any effect
21 on an electric consumer’s choice among competing sup-
22 pliers or products.

23 “(2) If a State regulatory authority or nonregulated
24 utility imposes or allows a charge to recover retail strand-
25 ed costs under paragraph (1), it shall consider reducing

1 the charge on an electric consumer who uses electric en-
2 ergy produced on-site when the charge results from the
3 use of new on-site generation produced by—

4 “(A) a fuel cell,

5 “(B) a facility with an efficiency rate of at least
6 50 percent,

7 “(C) a facility that uses a single fuel source to
8 produce at the point of use either electric or me-
9 chanical power and thermal energy and that has a
10 combined efficiency rate of at least 50 percent, or

11 “(D) a renewable resource.

12 “(f) ENFORCEMENT.—Any person may bring an ac-
13 tion in the appropriate State court against a State regu-
14 latory authority, a distribution utility, or a nonregulated
15 distribution utility for failure to comply with this section.
16 Filing an action challenging whether retail competition is
17 being implemented consistent with subsection (b) makes
18 a notice of retail competition ineffective for purposes of
19 sections 118, 119, 119A, and 199B of this Act and sec-
20 tions 212(h), 216, and 217 of the Federal Power Act until
21 final resolution of the action. Notwithstanding any other
22 law, a court created under Article III of the Constitution
23 does not have jurisdiction over an action arising under this
24 section.”.

1 (b) DEFINITIONS.—Section 3 of PURPA is amended
 2 by adding after paragraph (21) the following new para-
 3 graphs:

4 “(22) The term ‘notice of retail competition’
 5 means a notice filed under section 609(d).

6 “(23) The term ‘distribution utility’ means a
 7 person, State agency, or any other non-federal entity
 8 that owns or operates a local distribution facility
 9 used for the sale of electric energy to an electric con-
 10 sumer.

11 “(24) The term ‘nonregulated distribution util-
 12 ity’ means a distribution utility not subject to the
 13 ratemaking authority of a State regulatory author-
 14 ity.”.

15 **SEC. 102. AUTHORITY TO IMPOSE RECIPROCITY**
 16 **REQUIREMENTS.**

17 PURPA is amended by adding the following new sec-
 18 tion after section 117:

19 **“SEC. 118. AUTHORITY TO IMPOSE RECIPROCITY REQUIRE-**
 20 **MENTS.**

21 “(a) STATE REGULATORY AUTHORITY.—If a State
 22 regulatory authority files a notice of retail competition
 23 with respect to a distribution utility, beginning on the ef-
 24 fective date of the notice, the State regulatory authority
 25 may prohibit any other distribution utility located in the

1 United States over which it does not have ratemaking au-
 2 thority (and any affiliate of such a utility, as defined
 3 under the Public Utility Holding Company Act of 1999)
 4 from selling electric energy to electric consumers of a dis-
 5 tribution facility covered by the notice of retail competi-
 6 tion, unless a notice of retail competition has been filed
 7 with respect to the other distribution utility.

8 “(b) NONREGULATED DISTRIBUTION UTILITY.—If a
 9 nonregulated distribution utility files a notice of retail
 10 competition, beginning on the effective date of the notice,
 11 it may prohibit any other distribution utility located in the
 12 United States (and any affiliate of such a utility, as de-
 13 fined under the Public Utility Holding Company Act of
 14 1999) from selling electric energy to electric consumers
 15 of the nonregulated distribution utility covered by the no-
 16 tice unless a notice of retail competition has been filed
 17 with respect to the other distribution utility.”.

18 **SEC. 103. AGGREGATION FOR PURCHASE OF RETAIL ELEC-**
 19 **TRIC ENERGY.**

20 PURPA is amended by adding the following new sec-
 21 tion after section 118 as added by section 102 of this Act:

22 **“SEC. 119. AGGREGATION FOR PURCHASE OF RETAIL ELEC-**
 23 **TRIC ENERGY.**

24 “Notwithstanding any other provision of Federal or
 25 State law, and subject to legitimate and nondiscriminatory

1 State requirements imposed on retail electric suppliers, a
 2 group of customers or any entity acting on behalf of such
 3 group may acquire electric energy on an aggregate basis
 4 if the group of customers is served by one or more dis-
 5 tribution utilities for which a State regulatory authority
 6 or nonregulated distribution utility has filed a notice of
 7 retail competition under section 609 of this Act for each
 8 distribution utility.”.

9 **TITLE II—CONSUMER**
 10 **PROTECTION**

11 **SEC. 201. CONSUMER INFORMATION.**

12 PURPA is amended by adding the following new sec-
 13 tion after section 119 as added by section 103 of this Act:

14 **“SEC. 119A. CONSUMER INFORMATION DISCLOSURE.**

15 “(a) **DISCLOSURE RULES.**—Not later than six
 16 months after the date of enactment of this Act, the Sec-
 17 retary, in consultation with the Commission, the Adminis-
 18 trator of the Environmental Protection Agency, and the
 19 Federal Trade Commission, shall issue rules prescribing
 20 the form, content, placement, and timing of the supplier
 21 disclosure required under subsections (b) and (c) of this
 22 section. The rules shall be prescribed in accordance with
 23 section 553 of title 5, United States Code.

24 “(b) **DISCLOSURE TO ELECTRIC CONSUMERS.**—An
 25 electric utility that offers to sell electric energy to an elec-

1 tric consumer shall provide the electric consumer, to the
2 extent practicable and in accordance with rules issued
3 under subsection (a), a statement containing the following
4 information:

5 “(1) The nature of the service being offered, in-
6 cluding information about interruptibility or curtail-
7 ment of service.

8 “(2) The price of the electric energy, including
9 a description of any variable charges.

10 “(3) A description of all other charges associ-
11 ated with the service being offered including, but not
12 limited to, access charges, exit charges, back-up
13 service charges, stranded cost recovery charges, and
14 customer service charges.

15 “(4) Information concerning the type of energy
16 resource used to generate the electric energy and the
17 environmental attributes of the generation (including
18 air emissions characteristics).

19 “(5) Any other information the Secretary deter-
20 mines can be provided feasibly and would be useful
21 to consumers in making purchasing decisions.

22 “(c) DISCLOSURE TO WHOLESALE CUSTOMERS.—In
23 every sale of electric energy for resale, the seller shall pro-
24 vide to the purchaser the information respecting the type
25 of energy resource used to generate the electric energy and

1 the environmental attributes of the generation required by
2 rules established under subsection (a).

3 “(d) FEDERAL TRADE COMMISSION ENFORCE-
4 MENT.—A violation of a rule prescribed under this section
5 shall constitute an unfair or deceptive act or practice in
6 violation of section 5 of the Federal Trade Commission
7 Act (15 U.S.C. 45) and shall be treated as a violation of
8 a rule under section 18 of the Federal Trade Commission
9 Act (15 U.S.C. 57a). All functions and powers of the Fed-
10 eral Trade Commission under the Federal Trade Commis-
11 sion Act are available to enforce compliance with this sec-
12 tion notwithstanding jurisdictional limitations in the Fed-
13 eral Trade Commission Act.

14 “(e) AUTHORITY TO OBTAIN INFORMATION.—Au-
15 thority to obtain information under section 11 of the En-
16 ergy Supply and Environmental Coordination Act of 1974
17 (15 U.S.C. 796) is available to the Secretary to administer
18 this section and to the Federal Trade Commission to en-
19 force this section. In order to carry out its duties under
20 this section, the Federal Trade Commission may use any
21 of its powers under sections 3, 6, 9, and 20 of the Federal
22 Trade Commission Act (15 U.S.C. 43, 46, 49, and 57b–
23 2) without regard to the limitations contained in section
24 20(b) of that Act (15 U.S.C. 57b–2(b)) or any jurisdic-
25 tional limitations contained in that Act.

1 “(f) ENFORCEMENT BY STATES.—(1) When a State
2 determines that the interests of its residents have been
3 or are being threatened or adversely affected because any
4 person is violating or has violated a rule of the Secretary
5 under this section, the State may bring a civil action on
6 behalf of its residents in an appropriate district court of
7 the United States to—

8 “(A) enjoin the violation;

9 “(B) enforce compliance with the rule of the
10 Secretary;

11 “(C) obtain damages, restitution, or other com-
12 pensation on behalf of its residents; or

13 “(D) obtain other relief the court considers ap-
14 propriate.

15 “(2) The State shall serve prior written notice of any
16 civil action under this subsection upon the Federal Trade
17 Commission and provide the Federal Trade Commission
18 with a copy of its complaint, except that if it is not feasible
19 for the State to provide this prior notice, the State shall
20 serve the notice immediately upon instituting the action.
21 Upon receiving a notice respecting a civil action, the Fed-
22 eral Trade Commission may—

23 “(A) intervene in the action, and

24 “(B) upon so intervening, be heard on all mat-
25 ters arising in the action and file petition for appeal.

1 “(3) For purposes of bringing any civil action under
2 this subsection, this section does not prevent a State offi-
3 cial from exercising the powers conferred by State law to
4 conduct investigations, administer oaths or affirmations,
5 or compel the attendance of witnesses or the production
6 of documentary and other evidence.

7 “(4) While a civil action instituted by or on behalf
8 of the Federal Trade Commission for violation of any rule
9 prescribed under this subsection is pending, a State may
10 not institute a civil action under this section against a de-
11 fendant named in the complaint in the pending action for
12 a violation alleged in the complaint.

13 “(5) A civil action brought under this subsection may
14 be brought in the district in which the defendant is found,
15 is an inhabitant, or transacts business or wherever venue
16 is proper under section 1391 of title 28, United States
17 Code. Process in such an action may be served in any dis-
18 trict in which the defendant is an inhabitant or in which
19 the defendant may be found.

20 “(6) This section does not prohibit a State from pro-
21 ceeding in State court on the basis of an alleged violation
22 of a State civil or criminal statute.”.

1 **SEC. 202. ACCESS TO ELECTRIC SERVICE FOR LOW-INCOME**
2 **CONSUMERS.**

3 PURPA is amended by adding the following new sec-
4 tion after section 119A as added by section 201 of this
5 Act:

6 **“SEC. 119B. ACCESS TO ELECTRIC SERVICE FOR LOW-IN-**
7 **COME CONSUMERS.**

8 “(a) **DEFINITIONS.**—For purposes of this section
9 ‘low-income residential consumer’ is a household, as de-
10 fined in section 2603(4) of the Low-Income Home Energy
11 Assistance Act of 1981 (42 U.S.C. 8622(4)), with an an-
12 nual income that—

13 “(1) does not exceed 60 percent of the State
14 median income, as defined in section 2603(9) of the
15 Low-Income Home Energy Assistance Act of 1981
16 (42 U.S.C. 8622(9)), of the State where the house-
17 hold is located, or

18 “(2) meets the eligibility criteria for a low-in-
19 come energy program operated by the State where
20 the household is located.

21 “(b) **APPLICABILITY.**—Each State regulatory author-
22 ity and nonregulated distribution utility that files a notice
23 of retail competition under section 609 of this Act shall
24 conduct a proceeding to determine whether to apply the
25 principles of subsection (c).

1 “(c) PRINCIPLES.—The following are principles for
2 providing electric service to low-income residential con-
3 sumers:

4 “(1) A State regulatory authority or nonregu-
5 lated distribution utility shall assure that its low-in-
6 come residential consumers obtain benefits from re-
7 tail competition comparable to its other residential
8 consumers.

9 “(2) As a condition of offering retail service to
10 residential consumers in a State, a retail electric
11 supplier shall agree to—

12 “(A) offer, promote, and provide, upon re-
13 quest, retail electric service to a low-income res-
14 idential consumer on rates, terms, and condi-
15 tions comparable to those offered to other resi-
16 dential consumers located in the same area
17 where the low-income residential consumer is lo-
18 cated, and

19 “(B) share equitably with other retail elec-
20 tric suppliers in the State any costs necessary
21 to provide service to low-income residential con-
22 sumers under subparagraph (A).”.

1 **SEC. 203. UNFAIR TRADE PRACTICES.**

2 The Federal Trade Commission Act (15 U.S.C. 41
3 et seq.) is amended by inserting the following new section
4 after section 5:

5 **“SEC. 5A. ELECTRICITY SUPPLY UNFAIR TRADE PRACTICES.**
6 **TICES.**

7 “(a) DEFINITION.—For purposes of this section, ‘re-
8 tail electric supplier’ has the meaning given that term in
9 section 3(25) of the Public Utility Regulatory Policies Act
10 of 1978.

11 “(b) SLAMMING.—(1) The Federal Trade Commis-
12 sion shall establish rules in accordance with section 553
13 of title 5, United States Code for the submittal and
14 verification of a retail electric customer’s selection or
15 change in selection of a retail electric supplier and for the
16 assessment of penalties for violation of these rules. These
17 rules shall ensure that the customer receives electric serv-
18 ice from the retail electric supplier of the customer’s
19 choice.

20 “(2) A person shall not submit or change the selec-
21 tion made by a retail electric customer except in accord-
22 ance with procedures established in paragraph (1).

23 “(c) CRAMMING.—(1) The Federal Trade Commis-
24 sion shall establish rules in accordance with section 553
25 of title 5, United States Code for obtaining the consent
26 of a retail electric customer for purchase of goods and

1 services other than those expressly authorized by law or
2 by the customer's electricity supply and metering agree-
3 ment and for the assessment of penalties for violation of
4 these rules.

5 “(2) A person shall not charge a retail electric cus-
6 tomer for a particular service except in accordance with
7 procedures established in paragraph (1).

8 “(d) FEDERAL TRADE COMMISSION ENFORCE-
9 MENT.—Violation of this section or of a rule prescribed
10 under this section constitutes an unfair and deceptive act
11 or practice in violation of section 5 of this Act and shall
12 be treated as a violation of a rule under section 18 of this
13 Act. All functions and powers of the Federal Trade Com-
14 mission under this Act are available to the Federal Trade
15 Commission to enforce compliance with this section not-
16 withstanding any jurisdictional limitations in this Act.

17 “(e) STATE PROCEEDINGS AND OTHER REMEDIES.—
18 (1) This section does not preclude a State or State com-
19 mission from prescribing and enforcing additional laws,
20 regulations, or procedures regarding the practices which
21 are the subject of this section, so long as such laws, regu-
22 lations or procedures do not conflict with the provisions
23 of this section or with any rule prescribed by the FTC
24 pursuant to it.

1 “(2) The remedies provided by this section are in ad-
2 dition to any other remedies available by law.”.

3 **SEC. 204. RESIDENTIAL ELECTRICITY CONSUMER DATA-**
4 **BASE.**

5 PURPA is amended by adding the following new sec-
6 tion after section 119B as added by section 202 of this
7 Act:

8 **“SEC. 119C. RESIDENTIAL ELECTRICITY CONSUMER DATA-**
9 **BASE.**

10 “(a) DATABASE.—The Secretary is authorized to
11 compile a database to provide residential electric con-
12 sumers with information to compare the offers of various
13 retail electric suppliers.

14 “(b) INFORMATION.—A retail electric supplier who
15 provides electric consumers with information under section
16 119A shall provide the Secretary the same information
17 and any other information the Secretary considers appro-
18 priate for purposes of this section.

19 “(c) CONTENT.—The database under this program
20 shall—

21 “(1) compare the rates, terms, and conditions
22 of the service offered by the various retail electric
23 suppliers based on the information provided under
24 subsection (b);

1 “(2) disseminate the comparison to consumers
2 through various communications channels, including
3 the Internet; and

4 “(3) provide other information the Secretary
5 considers appropriate to carry out the purposes of
6 this section.”.

7 **SEC. 205. MODEL RETAIL SUPPLIER CODE.**

8 PURPA is amended by adding the following new sec-
9 tion after section 119C as added by section 204 of this
10 Act:

11 **“SEC. 119D. MODEL CODE FOR RETAIL SUPPLIERS.**

12 “The Secretary shall develop by rule and circulate
13 among the States for their consideration a model code for
14 the regulation of retail electric suppliers for the protection
15 of electric consumers.”.

16 **SEC. 206. MODEL ELECTRIC UTILITY WORKER CODE.**

17 PURPA is amended by adding the following new sec-
18 tion after section 119D as added by section 205 of this
19 Act:

20 **“SEC. 119E. MODEL CODE FOR ELECTRIC UTILITY WORK-**
21 **ERS.**

22 “(a) The Secretary shall develop by rule and circulate
23 among the States for their consideration a model code con-
24 taining standards for electric facility workers to ensure
25 electric facility safety and reliability. The Secretary, in de-

1 veloping these standards, shall consult with all interested
 2 parties, including representatives of electric facility work-
 3 ers.

4 “(b) In issuing a model code under this section, the
 5 Secretary shall not, for purposes of section 653 of title
 6 29, be deemed to be exercising statutory authority to pre-
 7 scribe or enforce standards or regulations affecting occu-
 8 pational safety and health.”.

9 **TITLE III—FACILITATING STATE** 10 **AND REGIONAL REGULATION**

11 **SEC. 301. CLARIFICATION OF STATE AND FEDERAL AU-** 12 **THORITY OVER RETAIL TRANSMISSION SERV-** 13 **ICES.**

14 (a) NONPREEMPTION OF STATE AND NONREGU-
 15 LATED UTILITY AUTHORITY TO ORDER RETAIL WHEEL-
 16 ING AND TO IMPOSE LOCAL DELIVERY CHARGES.—Sec-
 17 tion 201(b) of the Federal Power Act (referred to in this
 18 Act as “the FPA”) is amended by adding the following
 19 new paragraph after paragraph (2):

20 “(3) This Act does not preempt or otherwise affect
 21 any authority under the law of a State or municipality
 22 to—

23 “(A) require unbundled transmission and local
 24 distribution services for the delivery of electric en-
 25 ergy directly to an ultimate consumer, but if

1 unbundled transmission is in interstate commerce,
 2 the rates, terms, and conditions of the transmission
 3 are subject to the exclusive jurisdiction of the Com-
 4 mission under this part, or

5 “(B) impose a delivery charge on an ultimate
 6 consumer’s receipt of electric energy.”.

7 (b) OPEN ACCESS TRANSMISSION AUTHORITY; RE-
 8 TAIL WHEELING IN RETAIL COMPETITION STATES.—

9 (1) APPLICABILITY OF OPEN ACCESS TRANS-
 10 MISSION RULES.—Section 206 of the FPA is amend-
 11 ed by adding the following new subsection after sub-
 12 section (d):

13 “(e) OPEN ACCESS TRANSMISSION SERVICES.—(1)
 14 Under section 205 and this section, the Commission may
 15 require, by rule or order, public utilities to provide open
 16 access transmission services, subject to section 212(h),
 17 and may authorize recovery of stranded costs, as defined
 18 by the Commission, arising from any requirement to pro-
 19 vide open access transmission services. This section ap-
 20 plies to any rule or order issued by the Commission before
 21 the date of enactment of the Comprehensive Electricity
 22 Competition Act.”.

23 (2) AUTHORITY TO ORDER RETAIL WHEEL-
 24 ING.—Section 212(h) of the FPA is amended—

25 (A) by inserting “(1)” before “No”;

1 (B) by striking “(1)”, “(2)”, “(A)”, and
2 “(B)” and inserting in their places “(A)”,
3 “(B)”, “(i)”, and “(ii)” respectively;

4 (C) by striking from redesignated para-
5 graph (1)(B)(ii) “the date of enactment of this
6 subsection” and inserting “October 24, 1992,”
7 in its place; and

8 (D) by adding at the end a new paragraph
9 as follows:

10 “(2) Notwithstanding paragraph (1), the Com-
11 mission may issue an order that requires the trans-
12 mission of electric energy directly or indirectly to an
13 ultimate consumer if a notice of retail competition
14 under section 609 of the Public Utility Regulatory
15 Policies Act of 1978 has been filed and is in effect
16 with respect to the ultimate consumer’s distribution
17 utility or if a distribution utility offers open access
18 to its delivery facilities to the ultimate consumer.”.

19 (3) CONFORMING AMENDMENTS.—

20 (A) Section 3(23) of the FPA is amended
21 to read as follows:

22 “(23) ‘transmitting utility’ means any entity
23 that owns, controls, or operates electric power trans-
24 mission facilities that are used for the sale of electric
25 energy in the 48 contiguous States and the District

1 of Columbia, notwithstanding section 201(f) of this
2 Act;”.

3 (B) Section 3(24) of the FPA is amended
4 to read as follows:

5 “(24) ‘transmission services’ means the trans-
6 mission of electric energy sold or to be sold;”.

7 (C) Section 211(a) of the FPA is amended
8 by striking “for resale”.

9 (D) Section 212(a) of the FPA is amended
10 by striking “wholesale” each time it appears,
11 except the last time.

12 (e) **APPLICABILITY OF COMMISSION JURISDICTION**
13 **TO TRANSMITTING UTILITIES.**—Section 206(e) of the
14 FPA as added by subsection (b)(1) of this section is
15 amended by adding the following new paragraphs after
16 paragraph (1):

17 “(2)(A) The Commission has jurisdiction over the
18 rates, terms, and conditions for transmission services pro-
19 vided by a transmitting utility that is not a public utility
20 or covered by section 201A, subject to section 212(h), and
21 may authorize recovery of stranded costs, as defined by
22 the Commission, by such transmitting utility. The Com-
23 mission may require, by rule or order, a transmitting util-
24 ity that is not a public utility or covered by section 201A

1 to provide open access transmission services, subject to
2 section 212(h).

3 “(B) In exercising its authority under this Act, the
4 Commission—

5 “(i) shall take into account the different struc-
6 tural and operating characteristics of transmitting
7 utilities, including the multi-tier structure and the
8 not-for-profit operations of electric cooperatives;

9 “(ii) with respect to any transmitting utility
10 that has outstanding loans made or guaranteed by
11 the Rural Utilities Service, shall take into account
12 the policies of the Department of Agriculture in im-
13 plementing the Rural Electrification Act of 1936
14 and shall assure, to the extent practicable, that the
15 utility will be able to meet any loan obligations
16 under that Act; and

17 “(iii) shall not approve rates, terms, or condi-
18 tions the Commission determines would have the ef-
19 fect of jeopardizing the tax exempt status of non-
20 profit electric cooperatives under the Internal Rev-
21 enue Code of 1986.

22 “(C) Notwithstanding any other law, section 205,
23 this section, and part III apply to a transmitting utility
24 that is not a public utility or covered by section 201A for
25 purposes of this section.

1 “(3) Any electric utility that owns, directly or indi-
 2 rectly, generation facilities financed in whole or in part
 3 with outstanding loans made or guaranteed by the Rural
 4 Utilities Service may apply to the Commission to impose
 5 a charge for the recovery of stranded costs as defined by
 6 the Commission. If the Commission determines that the
 7 proposed charge is just, reasonable, and not unduly dis-
 8 criminatory or preferential, the Commission may issue an
 9 order providing for the imposition of the charge on trans-
 10 mission service by the applicant or by another transmit-
 11 ting utility or on any electric utility or transaction subject
 12 to the Commission’s jurisdiction.”.

13 (d) NOTICE TO AND INTERVENTION OF SECRETARY
 14 OF AGRICULTURE IN FERC PROCEEDINGS.—The FPA is
 15 amended by adding after section 218, as added by section
 16 601 of this Act, the following new section:

17 “NOTICE TO AND INTERVENTION OF SECRETARY OF
 18 AGRICULTURE IN COMMISSION PROCEEDINGS

19 “SEC. 219. Any person filing a complaint or petition
 20 for rulemaking under part II of the FPA that directly af-
 21 fects an electric utility with loans made or guaranteed
 22 under the Rural Electrification Act of 1936 shall provide
 23 notice of such complaint or petition to the Secretary of
 24 Agriculture. The Secretary of Agriculture may as a matter
 25 of right intervene or otherwise participate in any pro-
 26 ceeding before the Commission that directly affects an

1 electric utility with loans made or guaranteed under the
 2 Rural Electrification Act of 1936. The Secretary of Agri-
 3 culture shall comply with rules of procedure of general ap-
 4 plicability governing the timing of intervention or partici-
 5 pation in such proceeding or activity and, upon inter-
 6 vening or participating therein, shall comply with rules of
 7 procedure of general applicability governing the conduct
 8 thereof.”.

9 **SEC. 302. INTERSTATE COMPACTS ON REGIONAL TRANS-**
 10 **MISSION PLANNING.**

11 The FPA is amended by adding after section 214 the
 12 following new section:

13 “INTERSTATE COMPACTS ON REGIONAL TRANSMISSION
 14 PLANNING

15 “SEC. 215. (a) The consent of Congress is given for
 16 an agreement to establish a regional transmission plan-
 17 ning agency, if the Commission determines that the agree-
 18 ment would—

19 “(1) facilitate coordination among the States
 20 within a particular region with regard to the plan-
 21 ning of future transmission, generation, and dis-
 22 tribution facilities,

23 “(2) carry out State electric facility siting re-
 24 sponsibilities more effectively,

1 “(3) meet the other requirements of this section
2 and rules prescribed by the Commission under this
3 section, and

4 “(4) otherwise be consistent with the public in-
5 terest.

6 “(b)(1) If the Commission determines that an agree-
7 ment meets the requirements of subsection (a), the agency
8 established under the agreement has the authority nec-
9 essary or appropriate to carry out the agreement. This au-
10 thority includes authority with respect to matters other-
11 wise within the jurisdiction of the Commission, if expressly
12 provided for in the agreement and approved by the Com-
13 mission.

14 “(2) The Commission’s determination under this sec-
15 tion may be subject to any terms or conditions the Com-
16 mission determines are necessary to ensure that the agree-
17 ment is in the public interest.

18 “(c)(1) The Commission shall prescribe—

19 “(A) criteria for determining whether a regional
20 transmission planning agreement meets subsection
21 (a), and

22 “(B) standards for the administration of a re-
23 gional transmission planning agency established
24 under the agreement.

1 “(2) The criteria shall provide that, in order to meet
2 subsection (a)—

3 “(A) a regional transmission planning agency
4 must operate within a region that includes all tribal
5 governments and all or part of each State that is a
6 party to the agreement,

7 “(B) a regional transmission planning agency
8 must be composed of one or more members from
9 each State and tribal government that is a party to
10 the agreement,

11 “(C) each participating State and tribal govern-
12 ment must vest in the regional transmission plan-
13 ning agency the authority necessary to carry out the
14 agreement and this section, and

15 “(D) the agency must follow workable and fair
16 procedures in making its decisions, in governing
17 itself, and in regulating parties to the agreement
18 with respect to matters covered by the agreement,
19 including a requirement that all decisions of the
20 agency be made by majority vote (or majority of
21 weighted votes) of the members present and voting.

22 “(3) The criteria may include any other requirement
23 for meeting subsection (a) that the Commission deter-
24 mines is necessary to ensure that the regional trans-
25 mission planning agency’s organization, practices, and

1 procedures are sufficient to carry out this section and the
2 rules issued under it.

3 “(d) The Commission, after notice and opportunity
4 for comment, may terminate the approval of an agreement
5 under this section at any time if it determines that the
6 regional transmission planning agency fails to comply with
7 this section or Commission prescriptions under subsection
8 (c) or that the agreement is contrary to the public interest.

9 “(e) Section 313 applies to a rehearing before a re-
10 gional transmission planning agency and judicial review
11 of any action of a regional transmission planning agency.
12 For this purpose, when section 313 refers to ‘Commis-
13 sion’, substitute ‘regional transmission planning agency’
14 and when section 313(b) refers to ‘licensee or public util-
15 ity’, substitute ‘entity’.”.

16 **SEC. 303. BACKUP AUTHORITY TO IMPOSE A CHARGE ON**
17 **AN ULTIMATE CONSUMER’S RECEIPT OF**
18 **ELECTRIC ENERGY.**

19 The FPA is amended by adding the following new
20 section after section 215 as added by section 302 of this
21 Act:

22 “BACKUP AUTHORITY FOR CHARGE ON RECEIPT OF
23 ELECTRIC ENERGY

24 “SEC. 216. (a) If a State regulatory authority that
25 has provided notice of retail competition under section 609
26 of the Public Utility Regulatory Policies Act of 1978 for

1 a distribution utility determines that the utility should be
2 authorized or required to impose a charge on an ultimate
3 consumer's receipt of electric energy but the State regu-
4 latory authority lacks authority to authorize or require im-
5 position of such a charge, the State regulatory authority
6 may apply to the Commission for an order providing for
7 the imposition of the charge. If the Commission deter-
8 mines that the imposition of the charge is just, reasonable,
9 and not unduly discriminatory or preferential; is con-
10 sistent with the State regulatory authority's policy regard-
11 ing the imposition of the charge; and is not prohibited by
12 State law, the Commission may issue an order providing
13 for the imposition of the charge.

14 “(b) If a nonregulated utility that has outstanding
15 loans made or guaranteed by the Rural Utilities Service
16 and that has filed a notice of retail competition under sec-
17 tion 609 of the Public Utilities Regulatory Policies Act
18 of 1978 determines that it is appropriate to impose a
19 charge on an ultimate consumer's receipt of electric en-
20 ergy, but lacks the authority to impose such a charge
21 under State law, the utility may apply to the Commission
22 for an order providing for the imposition of a charge. If
23 the Commission determines that the proposed charge is
24 just, reasonable, and not unduly discriminatory or pref-

1 erential, the Commission may issue an order providing for
2 the imposition of the charge.”.

3 **SEC. 304. AUTHORITY TO ESTABLISH AND REQUIRE INDE-**
4 **PENDENT REGIONAL SYSTEM OPERATION.**

5 Section 202 of the FPA is amended by adding the
6 following new subsections after subsection (g):

7 “(h) Upon its own motion or upon application or
8 complaint and after notice and an opportunity for a hear-
9 ing, the Commission may order the establishment of enti-
10 ties for the purpose of independent operation, control, and
11 planning of interconnected transmission facilities; order a
12 transmitting utility to relinquish control over operation of
13 its transmission facilities to an entity for the purpose of
14 independent operation, control, and planning of inter-
15 connected transmission facilities; subject generators to the
16 control of such entity consistent with other laws to the
17 extent necessary to permit reliable operation of the trans-
18 mission facilities; or take any combination of these actions,
19 if the Commission finds that—

20 “(1) this action is appropriate to promote com-
21 petitive electricity markets and efficient, economical,
22 and reliable operation of the interstate transmission
23 grid;

24 “(2) the entity established for the purpose of
25 independent operation, control, and planning of

1 interconnected transmission facilities will operate,
2 control, and plan the transmission facilities in a
3 manner that assures that—

4 “(A) ownership of transmission facilities
5 provides no advantage in competitive electricity
6 markets;

7 “(B) the transmission customers of the
8 Tennessee Valley Authority (TVA), the Bonne-
9 ville Power Administration, the Southwestern
10 Power Administration (SWPA), and the West-
11 ern Area Power Administration (WAPA) will
12 not pay an unreasonable share of the entity’s
13 costs and will not experience unreasonable
14 transmission rate increases resulting from the
15 establishment of the entity; and

16 “(C) as applicable, the respective statutory
17 and treaty obligations and contractual obliga-
18 tions existing on the date of enactment of this
19 Act of the TVA Board of Directors, the Bonne-
20 ville Administrator, the SWPA Administrator,
21 the WAPA Administrator, the Bureau of Rec-
22 lamation, and the Corps of Engineers can be
23 met;

24 “(3) any transmitting utility ordered to transfer
25 control of its transmission facilities will receive just

1 and reasonable compensation for the use of its facili-
2 ties, consistent with section 201A where applicable;
3 and

4 “(4) adequate reliability of the affected trans-
5 mission facilities will be maintained.

6 Nothing in this section limits States from addressing
7 transmission facility maintenance, planning, siting, and
8 other utility functions in a manner consistent with this
9 Act or Commission action under this Act.

10 “(i) If not ordered under subsection (h), TVA, the
11 Bonneville Administrator, the SWPA Administrator, or
12 the WAPA Administrator are authorized to participate in
13 a regional transmission system operation after conducting
14 a public process in the relevant service area to receive com-
15 ments. Notwithstanding any other law, participation may
16 include delegation of operation and control of the Author-
17 ity or Administration’s transmission system to that entity,
18 or other method of participation, under terms and condi-
19 tions the Authority or Administrator determines necessary
20 or appropriate, including being bound by operational and
21 other orders of the entity and by the results of arbitration
22 of disputes with the entity or with other participants.”.

1 **TITLE IV—PUBLIC BENEFITS**

2 **SEC. 401. PUBLIC BENEFITS FUND.**

3 PURPA is amended by adding after section 609, as
4 added by section 101 of this Act, the following new sec-
5 tion:

6 **“SEC. 610. PUBLIC BENEFITS FUND.**

7 “(a) DEFINITIONS.—For purposes of this section—

8 “(1) the term ‘Board’ means the Joint Board
9 established under subsection (b)(1);

10 “(2) the term ‘eligible public purpose program’
11 means a program that supports one or more of the
12 following—

13 “(A) availability of affordable electricity
14 service to low-income customers,

15 “(B) implementation of energy conserva-
16 tion and energy efficiency measures and energy
17 management practices,

18 “(C) consumer education,

19 “(D) the development and demonstration
20 of an electricity generation technology that the
21 Secretary determines is emerging from research
22 and development, provides environmental bene-
23 fits, and—

24 “(i) has significant national commer-
25 cial potential, or

1 “(ii) provides energy security or gen-
2 eration resource diversity benefits, or

3 “(E) rural assistance subsequent to a de-
4 termination made under subsection (d)(4);

5 “(3) the term ‘fiscal agent’ means the entity
6 designated under subsection (b)(2)(B);

7 “(4) the term ‘Fund’ means the Public Benefits
8 Fund established under subsection (b)(2)(A); and

9 “(5) the term ‘State’ means each of the 48 con-
10 tiguous States and the District of Columbia.

11 “(b) JOINT BOARD.—(1) A Joint Board is estab-
12 lished whose membership is composed of two officers or
13 employees of the United States Government appointed by
14 the Secretary, four State commissioners appointed by the
15 national organization of State commissions, and one mem-
16 ber of an Indian tribal government appointed by the Sec-
17 retary. The Secretary shall designate the Chair of the
18 Board.

19 “(2) The Board shall—

20 “(A) establish a Public Benefits Fund upon pe-
21 tition of States and tribal governments wishing to
22 participate in the program under this section,

23 “(B) appoint a fiscal agent, from persons nomi-
24 nated by the States and tribal governments peti-
25 tioning to establish the Fund, and

1 “(C) administer the Fund as set forth in this
2 section.

3 “(c) FISCAL AGENT.—The fiscal agent appointed by
4 the Board shall collect and disburse the amounts in the
5 Fund as set forth in this section.

6 “(d) SECRETARY.—The Secretary shall prescribe
7 rules for:

8 “(1) The determination of charges under sub-
9 section (e).

10 “(2) The collection of amounts for the Fund,
11 including provisions for overcollection or undercollec-
12 tion.

13 “(3) Distribution of amounts from the Fund.

14 “(4) The criteria under which the Board deter-
15 mines whether a State or tribal government’s pro-
16 gram is an eligible public purpose program, includ-
17 ing a rural assistance program. A rural assistance
18 program shall be an eligible public purpose program
19 to the extent that the Secretary, in consultation with
20 the Secretary of Agriculture, determines by rule that
21 significant adverse economic effects on rural cus-
22 tomers have occurred or will occur as a result of
23 electricity restructuring that meets the retail com-
24 petition requirements of this Act. After such a deter-
25 mination is made, the Secretary, in consultation with

1 the Secretary of Agriculture, shall specify by rule
2 the mechanism for distribution of funds to rural as-
3 sistance programs, amounts to be provided, and
4 variances to the overall requirements to the Public
5 Benefits Fund under this section, if any. For the
6 purposes of funding rural assistance programs, the
7 Secretary shall increase the charge for the Public
8 Benefit Fund as necessary, up to a maximum of .17
9 mills per kilowatt hour. Funding for rural assistance
10 programs under this section shall be provided exclu-
11 sively from this increase in the charge.

12 “(e) PUBLIC BENEFITS CHARGE.—(1) As a condition
13 of existing or future interconnection with facilities of any
14 transmitting utility, each owner of an electric generating
15 facility whose capacity exceeds one megawatt shall pay the
16 transmitting utility a public benefits charge determined
17 under paragraph (2), even if the generation facility and
18 the transmitting facility are under common ownership or
19 are otherwise affiliated. Each importer of electric energy
20 from Canada or Mexico, as a condition of existing or fu-
21 ture interconnection with facilities of any transmitting
22 utility in the United States, shall pay this same charge
23 for imported electric energy. The transmitting utility shall
24 pay the amounts collected to the facility agent at the close

1 of each month, and the fiscal agent shall deposit the
2 amounts into the Fund as offsetting collections.

3 “(2)(A) The Board shall notify the Commission of
4 the sum of the requests of all States and tribal govern-
5 ments under subsection (f) within 30 days after receiving
6 the requests.

7 “(B) The Commission shall calculate the rate for the
8 public benefits charge for each calendar year at an
9 amount, not in excess of 1 mill per kilowatt-hour, equal
10 to the sum of the requests of all States and tribal govern-
11 ments under subsection (f) for programs described in sub-
12 section (a)(2)(A) through (a)(2)(D), but not exceed \$3 bil-
13 lion per year, divided by the estimated kilowatt hours of
14 electric energy to be generated by generators subject to
15 the charge. Amounts collected in excess of \$3 billion in
16 a fiscal year shall be retained in the fund and the assess-
17 ment in the following year shall be reduced by that
18 amount. If there are more than de minimis receipts from
19 the sale of Renewable Energy Credits under section 611,
20 the Secretary shall direct the Commission to reduce the
21 charge to reflect the amount of receipts received from the
22 sale of Credits. The amount of the receipts from the sale
23 of Renewable Energy Credits deposited in the Public Ben-
24 efits Fund may not exceed \$3 billion per year adjusted
25 for inflation. Receipts from the sale of Renewable Energy

1 Credits in excess of \$3 billion per year adjusted for infla-
2 tion shall be deposited in the General Fund of the Treas-
3 ury.

4 “(C) If a finding is made under subsection (d)(4) in
5 relation to rural customers, the public benefit charge shall
6 be increased as indicated under subsection (d)(4).

7 “(f) STATE AND TRIBAL GOVERNMENT PARTICIPA-
8 TION.—(1) Not later than 90 days before the beginning
9 of each calendar year, each State and tribal government
10 seeking to participate in the Fund shall submit to the
11 Board a request for payments from the Fund for the cal-
12 endar year in an amount not in excess of 50 percent of
13 the State or tribal government’s estimated expenditures
14 for eligible public purpose programs for the year, except
15 as provided under rules issued under subsection (d)(4) for
16 rural assistance programs.

17 “(2) To the extent a State or tribal government gen-
18 erates all or part of its funds for eligible public purpose
19 programs through a wires charge on an ultimate con-
20 sumer’s receipt of electric energy, the State or tribal gov-
21 ernment shall impose the charge on a non-discriminatory
22 basis on all consumers within the State or tribal govern-
23 ment jurisdiction.

24 “(3) Notwithstanding subsection (a)(5)—

1 “(A) Alaska may participate in the Fund as a
2 State if it certifies to the Board that all generators
3 within Alaska with a nameplate capacity exceeding
4 one megawatt shall pay into the Fund at the rate
5 calculated by the Board during the year in which
6 Alaska seeks matching funds, and

7 “(B) Hawaii may participate in the Fund as a
8 State if it certifies to the Board that all generators
9 within Hawaii with a nameplate capacity exceeding
10 one megawatt shall pay into the Fund at the rate
11 calculated by the Board during the year in which
12 Hawaii seeks matching funds.

13 “(g) DISBURSAL FROM THE FUND.—(1) The Board
14 shall review State and tribal government submissions and
15 determine whether programs designated by the State or
16 tribal government are eligible public purpose programs,
17 using the criteria prescribed under subsection (d), and
18 whether there is reasonable assurance that spending quali-
19 fying as State or tribal government matching funds will
20 occur.

21 “(2) The fiscal agent shall disburse amounts in the
22 Fund to participating States and tribal governments to
23 carry out eligible public purpose programs in accordance
24 with this subsection and rules prescribed under subsection
25 (d).

1 “(3) To the extent the aggregate amount of funds
2 requested by the States and tribal governments exceeds
3 to the maximum aggregate revenues eligible to be collected
4 under subsection (e) and deposited as payment for Renew-
5 able Energy Credits under section 611, the fiscal agency
6 shall reduce each participating State and tribal govern-
7 ment’s request proportionately.

8 “(4)(A) The fiscal agent shall disburse amounts for
9 a calendar year from the Fund to a State or tribal govern-
10 ment in twelve equal monthly payments beginning two
11 months after the beginning of the calendar year. Amounts
12 disbursed may not exceed the lesser of the State or tribal
13 government’s request for the fiscal year, after any reduc-
14 tion required under paragraph (3), or 50 percent of the
15 State or tribal government’s documented expenditures for
16 eligible public purpose programs for the calendar year, ex-
17 cept as provided under rules issued under subsection
18 (d)(4) for rural assistance programs.

19 “(B) The fiscal agent shall make distributions to the
20 State or tribal government or to an entity designated by
21 the State or tribal government to receive payments. The
22 State or tribal government may designate a nonregulated
23 utility as an entity to receive payments under this section.

24 “(C) A State or tribal government may use amounts
25 received only for the eligible public purpose programs the

1 State or tribal government designated in its submission
2 to the Board and the Board determined eligible.

3 “(h) REPORT.—One year before the date of expira-
4 tion of this section, the Secretary shall report to Congress,
5 after consultation with the Board, whether a public bene-
6 fits fund should continue to exist.

7 “(i) SUNSET.—This section expires at midnight on
8 December 31 of the fifteenth year after the year the Com-
9 prehensive Electricity Competition Act is enacted, except
10 with regard to charges and funding for rural assistance
11 programs.”.

12 **SEC. 402. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

13 (a) STANDARD.—PURPA is amended by adding after
14 section 610, as added by section 401 of this Act, the fol-
15 lowing new section:

16 **“SEC. 611. FEDERAL RENEWABLE PORTFOLIO STANDARD.**

17 “(a) MINIMUM RENEWABLE GENERATION REQUIRE-
18 MENT.—(1) For each calendar year beginning with 2000,
19 a retail electric supplier shall submit to the Secretary Re-
20 newable Energy Credits in an amount equal to the re-
21 quired annual percentage, specified in subsection (b), of
22 the total electric energy sold by the retail electric supplier
23 to electric consumers in the calendar year. The retail elec-
24 tric supplier shall make this submission before April 1 of
25 the following calendar year.

1 “(2) For purposes of this section a ‘renewable energy’
2 resource means solar energy, wind, geothermal, or bio-
3 mass.

4 “(3) This section does not preclude a State from re-
5 quiring additional renewable energy generation in that
6 State.

7 “(b) REQUIRED ANNUAL PERCENTAGE.—(1) The
8 Secretary shall determine the required annual percentage
9 that is to be applied to all retail electric suppliers for cal-
10 endar years 2000–2004. This required annual percentage
11 shall be equal to the percent of the total electric energy
12 sold, during the most recent calendar year for which infor-
13 mation is available before the calendar year of the enact-
14 ment of this section, by retail electric suppliers to electric
15 customers in the United States that is renewable energy.

16 “(2) The Secretary shall determine the required an-
17 nual percentage for all retail electric suppliers for calendar
18 years 2005–2009. This percentage shall be above the per-
19 centage in paragraph (1) and below the percentage in
20 paragraph (3) and shall be selected to promote a smooth
21 transition to the level in paragraph (3).

22 “(3) For calendar years 2010–2015, the required an-
23 nual percentage is 7.5 percent.

1 “(c) SUBMISSION OF CREDITS.—A retail electric sup-
2 plier may satisfy the requirements of subsection (a)
3 through the submission of—

4 “(1) Renewable Energy Credits issued under
5 subsection (d) for renewable energy generated by the
6 retail electric supplier in the calendar year for which
7 Credits are being submitted or any previous calendar
8 year,

9 “(2) Renewable Energy Credits issued under
10 subsection (d) to any renewable energy generator for
11 renewable energy generated in the calendar year for
12 which Credits are being submitted or a previous cal-
13 endar year and acquired by the retail electric sup-
14 plier, or

15 “(3) any combination of Credits under para-
16 graphs (1) and (2).

17 “(d) ISSUANCE OF CREDITS.—(1) The Secretary
18 shall establish, not later than one year after the date of
19 enactment of this section, a program to issue, monitor the
20 sale or exchange of, and track Renewable Energy Credits.

21 “(2) Under the program, an entity that generates
22 electric energy through the use of a renewable energy re-
23 source may apply to the Secretary for the issuance of Re-
24 newable Energy Credits. The application shall indicate—

1 “(A) the type of renewable energy resource used
2 to produce the electricity,

3 “(B) the State in which the electric energy was
4 produced, and

5 “(C) any other information the Secretary deter-
6 mines appropriate.

7 “(3)(A) Except as provided in paragraph (B), the
8 Secretary shall issue to an entity one Renewable Energy
9 Credit for each kilowatt-hour of electric energy the entity
10 generates through the use of a renewable energy resource
11 in any State in 2000 and any succeeding year.

12 “(B) The Secretary shall issue two Renewable En-
13 ergy Credits for each kilowatt-hour of electric energy gen-
14 erated through the use of a renewable energy resource in
15 any State in 2000 and any succeeding year, if the gener-
16 ating facility is located on Indian land. For purposes of
17 this paragraph, renewable energy generated by biomass
18 cofired with other fuels is eligible for two credits only if
19 the biomass was grown on the land eligible under this
20 paragraph.

21 “(C) To be eligible for a Renewable Energy Credit,
22 the unit of electricity generated through the use of a re-
23 newable energy resource may be sold or may be used by
24 the generator. If both a renewable energy resource and
25 a non-renewable energy resource are used to generate the

1 electric energy, the Secretary shall issue credits based on
2 the proportion of the renewable energy resource used. The
3 Secretary shall identify Renewable Energy Credits by type
4 of generation and by the State in which the generating
5 facility is located.

6 “(4) In order to receive a Renewable Energy Credit,
7 the recipient of a Renewable Energy Credit shall pay a
8 fee, calculated by the Secretary, in an amount that is
9 equal to the administrative costs of issuing, recording,
10 monitoring the sale or exchange of, and tracking the Cred-
11 it or does not exceed five percent of the dollar value of
12 the Credit, whichever is lower. The Secretary shall retain
13 the fee and use it to pay these administrative costs.

14 “(5) When a generator sells electric energy generated
15 through the use of a renewable energy resource to a retail
16 electric supplier under a contract subject to section 210
17 of this Act, the retail electric supplier is treated as the
18 generator of the electric energy for the purposes of this
19 section for the duration of the contract.

20 “(6) The Secretary shall disqualify an otherwise eligi-
21 ble renewable energy generator from receiving a Renew-
22 able Energy Credit if the generator has elected to partici-
23 pate in net metering under section 612.

24 “(7) If a generator using a renewable energy resource
25 receives matching funds under section 610, the Secretary

1 shall reduce the number of Renewable Energy Credits the
2 generator receives under paragraph (3) so that the aggregate
3 value of those Credits plus the matching funds received
4 under section 610 equals the aggregate value of the
5 Credits the generator would have received absent this
6 paragraph. For purposes of this paragraph, the Secretary
7 shall value a Credit at a price that is representative of
8 the price of a Credit in private transactions. In no event
9 shall the Secretary use a price to establish values for purposes
10 of this paragraph that exceed the cost cap established
11 under subsection (f).

12 “(e) SALE OR EXCHANGE.—A Renewable Energy
13 Credit may be sold or exchanged by the entity to whom
14 issued or by any other entity who acquires the Credit. A
15 Renewable Energy Credit for any year that is not used
16 to satisfy the minimum renewable generation requirement
17 of subsection (a) for that year may be carried forward for
18 use in another year.

19 “(f) RENEWABLE ENERGY CREDIT COST CAP.—Beginning
20 January 1, 2000, the Secretary shall offer Renewable
21 Energy Credit for sale. The Secretary shall charge
22 1.5 cents for each Renewable Energy Credit sold during
23 calendar year 2000, and on January 1 of each following
24 year, the Secretary shall adjust for inflation, based on the
25 Consumer Price Index, the price charged per Credit for

1 that calendar year. The Secretary shall deposit in the Pub-
2 lic Benefits Fund established under section 610 the
3 amount received from a sale under this subsection.

4 “(g) ENFORCEMENT.—The Secretary may bring an
5 action in the appropriate United States district court to
6 impose a civil penalty on a retail electric supplier that does
7 not comply with subsection (a). A retail electric supplier
8 who does not submit the required number of Renewable
9 Energy Credits under subsection (a) is subject to a civil
10 penalty of not more than three times the value of the Re-
11 newable Energy Credits not submitted. For purposes of
12 this subsection, the value of a Renewable Energy Credit
13 is the price of a Credit determined under subsection (f)
14 for the year the Credits were not submitted.

15 “(h) INFORMATION COLLECTION.—The Secretary
16 may collect the information necessary to verify and
17 audit—

18 “(1) the annual electric energy generation and
19 renewable energy generation of any entity applying
20 for Renewable Energy Credits under this section,

21 “(2) the validity of Renewable Energy Credits
22 submitted by a retail electric supplier to the Sec-
23 retary, and

24 “(3) the quantity of electricity sales of all retail
25 electric suppliers.

1 “(i) SUNSET.—This section expires December 31,
2 2015.”.

3 (b) DEFINITIONS.—Section 3 of PURPA is amended
4 by adding after paragraph (24) as added by section 101
5 of this Act the following new paragraph:

6 “(25) The term ‘retail electric supplier’ means
7 a person, State agency, or Federal agency that sells
8 electric energy to an electric consumer.

9 “(26) The term ‘Indian land’ means (A) any
10 land within the limits of any Indian reservation,
11 pueblo or rancheria, (B) any land not within the lim-
12 its of any Indian reservation, pueblo or rancheria
13 title to which was on the date of passage of the
14 Comprehensive Electricity Competition Act either
15 held by the United States for the benefit of any In-
16 dian tribe or individual or held by any Indian tribe
17 or individual subject to restriction by the United
18 States against alienation, (C) any dependent Indian
19 community, and (D) any land conveyed to any Alas-
20 ka Native corporation under the Alaska Native
21 Claims Settlement Act.

22 “(27) The term ‘Indian tribe’ means any Indian
23 tribe, band, group, or nation, including Alaska Indi-
24 ans, Aleuts, or Eskimos, or any Alaskan Native Vil-
25 lage of the United States, which is considered an eli-

1 eligible recipient under the Indian Self Determination
2 and Education Assistance Act (Public Law 93–638)
3 or was considered an eligible recipient under chapter
4 67 of title 31, United States Code, prior to the re-
5 peal of such chapter.”.

6 **SEC. 403. NET METERING.**

7 PURPA is amended by adding the following new sec-
8 tion after section 611 as added by section 402 of this Act:

9 **“SEC. 612. NET METERING FOR RENEWABLE ENERGY.**

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

11 “(1) The term ‘eligible on-site generating facil-
12 ity’ means a facility on the site of an electric con-
13 sumer with a peak generating capacity of 20 kilo-
14 watts or less that is fueled solely by a renewable en-
15 ergy resource.

16 “(2) The term ‘renewable energy resource’
17 means solar energy, wind, geothermal, or biomass.

18 “(3) The term ‘net metering service’ means
19 service to an electric consumer under which elec-
20 tricity generated by that consumer from an eligible
21 on-site generating facility and delivered to the dis-
22 tribution system through the same meter through
23 which purchased electricity is received may be used
24 to offset electricity provided by the retail electric
25 supplier to the electric consumer during the applica-

1 ble billing period so that an electric consumer is
2 billed only for the net electricity consumed during
3 the billing period, but in no event shall the net be
4 less than zero during the applicable billing period.

5 “(b) REQUIREMENT TO PROVIDE NEW METERING
6 SERVICE.—Each retail electric supplier shall make avail-
7 able upon request net metering service to any retail elec-
8 tric consumer whom the supplier currently serves or solie-
9 its for service.

10 “(c) STATE AUTHORITY.—This section does not pre-
11 clude a State from imposing additional requirements con-
12 sistent with the requirements in this section, including the
13 imposition of a cap limiting the amount of net metering
14 available in the State. Nothing in this Act or any other
15 Federal law preempts or otherwise affects authority under
16 State law to require a retail electric supplier to make avail-
17 able net metering service to a retail electric consumer
18 whom the supplier serves or offers to serve.”.

19 **SEC. 404. REFORM OF SECTION 210 OF PURPA.**

20 Section 210 of PURPA is amended by adding the fol-
21 lowing new subsection after subsection (l):

22 “(m) REPEAL OF MANDATORY PURCHASE REQUIRE-
23 MENT.—After the date of enactment of the Comprehensive
24 Electricity Competition Act, an electric utility shall not be

1 required to enter into a new contract or obligation to pur-
2 chase electric energy under this section.”.

3 **SEC. 405. INTERCONNECTIONS FOR CERTAIN FACILITIES.**

4 PURPA is amended by adding the following new sec-
5 tion after section 612 as added by section 403 of this Act:

6 **“SEC. 613. INTERCONNECTIONS FOR CERTAIN FACILITIES.**

7 “(a) DEFINITION.—As used in this section ‘facility’
8 means—

9 “(1) a small-scale electric power generation fa-
10 cility that is designed to serve customers at or near
11 the facility, or

12 “(2) a facility using a single fuel source to
13 produce at the point of use either electric or me-
14 chanical power and thermal energy.

15 “(b) INTERCONNECTION.—A distribution utility shall
16 allow a facility to interconnect with the distribution utility
17 if the facility owner is located in the distribution utility’s
18 service territory and complies with the final rule issued
19 under subsection (c).

20 “(c) Within one year from the date of enactment of
21 this section, the Secretary shall issue a final rule to imple-
22 ment subsection (b) and issue related safety and power
23 quality standards. To the extent feasible, the Secretary
24 shall develop the standards through a process involving in-
25 terested parties.

1 “(d) The Commission shall enforce the rule estab-
2 lished under subsection (c) using its authority under this
3 Act.”.

4 **SEC. 406. RURAL AND REMOTE COMMUNITIES ELEC-**
5 **TRIFICATION GRANTS.**

6 Section 313 of the Rural Electrification Act of 1936
7 (7 U.S.C. 940e) is amended by adding after subsection
8 (b) the following new subsections:

9 “(c) RURAL AND REMOTE COMMUNITIES ELEC-
10 TRIFICATION GRANTS.—The Secretary, in consultation
11 with the Secretary of Energy and the Secretary of the In-
12 terior, may provide grants to eligible borrowers under this
13 Act for the purposes of increasing energy efficiency, low-
14 ering or stabilizing electric rates to end users, or providing
15 or modernizing electric facilities for—

16 “(1) a unit of local government of a State or
17 territory, or

18 “(2) an Indian tribe
19 that has an average cost per kilowatt hour of electricity
20 that is at least 150 percent of the average retail price per
21 kilowatt hour for all consumers in the United States, as
22 determined by the Secretary using data provided by the
23 Department of Energy. The Secretary shall issue the
24 grants based on a determination of cost-effectiveness and

1 most effective use of the funds to achieve the stated pur-
2 poses of this section.

3 “(d) DEFINITION.—For purposes of this section, the
4 term ‘Indian tribe’ means any Indian tribe, band, group,
5 or nation, including Alaska Indians, Aleuts, or Eskimos,
6 or any Alaskan Native Village of the United States, which
7 is considered an eligible recipient under the Indian Self
8 Determination and Education Assistance Act (Public Law
9 93–638) or was considered an eligible recipient under
10 chapter 67 of title 31, United States Code, prior to the
11 repeal of such chapter.

12 “(e) AUTHORIZATION.—There is authorized to be ap-
13 propriated for purposes of subsection (c) \$20,000,000 for
14 each of the seven fiscal years following enactment of this
15 section.”.

16 **SEC. 407. INDIAN TRIBE ASSISTANCE.**

17 Title XXVI of the Energy Policy Act of 1992 (25
18 U.S.C. 3501–3506) is amended by—

19 (1) adding after section 2606 the following new
20 section:

21 **“SEC. 2607. TRIBAL ELECTRICITY ASSISTANCE.**

22 “(a) The Secretary of Energy, in consultation with
23 the Secretary of the Interior and the Secretary of Agri-
24 culture, shall establish a program to assist an Indian tribe
25 to meet its electricity needs. Under the program, the Sec-

1 retary shall provide, subject to appropriations, to an In-
2 dian tribe—

3 “(1) technical assistance and grants to analyze
4 tribal electricity needs, the availability of natural re-
5 sources for tribal generation of electricity, the oppor-
6 tunities for the improvement of transmission of elec-
7 tricity to the tribe, and the effect on the tribe of re-
8 tail competition in the sale or transmission of elec-
9 tricity, and

10 “(2) in an area that is not served or served in-
11 adequately by an electric utility, as defined in sec-
12 tion 3(4) of the Public Utility Regulatory Policies
13 Act of 1978, or distribution utility, as defined in sec-
14 tion 3(23) of the Public Utility Regulatory Policies
15 Act of 1978, grants to plan and construct or im-
16 prove facilities to generate, transmit, and distribute
17 electricity to serve tribal needs.

18 In exercising authority under this section, the Secretary
19 shall take into account the ability of entities with loans
20 made or guaranteed under the Rural Electrification Act
21 of 1936 to repay those loans. The Secretary shall issue
22 the grants based on a determination of cost-effectiveness
23 and most effective use of the funds to achieve the stated
24 purposes of this section.

1 “(b) DEFINITION.—For purposes of this section, the
2 term ‘Indian tribe’ means any Indian tribe, band, group,
3 or nation, including Alaska Indians, Aleuts, or Eskimos,
4 or any Alaskan Native Village of the United States, which
5 is considered an eligible recipient under the Indian Self
6 Determination and Education Assistance Act (Public Law
7 93–638) or was considered an eligible recipient under
8 chapter 67 of title 31, United States Code, prior to the
9 repeal of such chapter.

10 “(c) There are authorized to be appropriated to the
11 Department of Energy for each of the seven fiscal years
12 following enactment of this section, \$5,000,000 to carry
13 out subsection (a)(1), and \$15,000,000 to carry out sub-
14 section (a)(2).”.

15 **SEC. 408. OFFICE OF INDIAN ENERGY POLICY AND PRO-**
16 **GRAMS.**

17 Title II of the Department of Energy Organization
18 Act is amended by adding the following new section after
19 section 212:

20 **“SEC. 213. OFFICE OF INDIAN ENERGY POLICY AND PRO-**
21 **GRAMS.**

22 “(a) The Secretary may establish within the Depart-
23 ment an Office of Indian Energy Policy and Programs.
24 The Office shall be headed by a Director appointed by the
25 Secretary.

1 “(b) Subject to the supervision of the Secretary, the
2 Office is authorized to establish a program to provide, di-
3 rect, foster, coordinate and implement energy, energy
4 management, and energy conservation programs to—

5 “(1) promote tribal energy efficiency;

6 “(2) modernize tribal electric infrastructure;

7 “(3) preserve tribal sovereignty and self deter-
8 mination related to energy matters;

9 “(4) lower or stabilized energy costs; and

10 “(5) electrify tribal members’ homes.

11 “(c) There are authorized to be appropriated such
12 sums as may be necessary to implement this section.”.

13 **SEC. 409. SOUTHEAST ALASKA ELECTRICAL POWER.**

14 There is authorized to be appropriated to the Depart-
15 ment of Energy up to a total sum of \$20,000,000 for the
16 purpose of providing financial assistance to the State of
17 Alaska as necessary to ensure the availability of adequate
18 electrical power to the greater Ketchikan area in southeast
19 Alaska, including the construction of an intertie.

1 **TITLE V—REGULATION OF**
2 **MERGERS AND CORPORATE**
3 **STRUCTURE**

4 **SEC. 501. REFORM OF HOLDING COMPANY REGULATION**
5 **UNDER PUHCA.**

6 Effective 18 months after the enactment of this Act,
7 the Public Utility Holding Company Act of 1935 is re-
8 pealed and the following is enacted in its place:

9 **“SECTION 1. SHORT TITLE.**

10 “This Act may be cited as the ‘Public Utility Holding
11 Company Act of 1999’.

12 **“SEC. 2. DEFINITIONS.**

13 “For purposes of this Act—

14 “(1) the term ‘affiliate’ of a company means
15 any company 5 percent or more of the outstanding
16 voting securities of which are owned, controlled, or
17 held with power to vote, directly or indirectly, by
18 such company;

19 “(2) the term ‘associate company’ of a company
20 means any company in the same holding company
21 system with such company;

22 “(3) the term ‘Commission’ means the Federal
23 Energy Regulatory Commission;

24 “(4) the term ‘company’ means a corporation,
25 partnership, association, joint stock company, busi-

1 ness trust, or any organized group of persons,
2 whether incorporated or not, or a receiver, trustee,
3 or other liquidating agent of any of the foregoing;

4 “(5) the term ‘electric utility company’ means
5 any company that owns or operates facilities used
6 for the generation, transmission, or distribution of
7 electric energy for sale;

8 “(6) the terms ‘exempt wholesale generator’
9 and ‘foreign utilities company’ have the same mean-
10 ings as in sections 32 and 33, respectively, of the
11 Public Utility Holding Company Act of 1935, as
12 those sections existed on the day before the effective
13 date of this Act;

14 “(7) the term ‘gas utility company’ means any
15 company that owns or operates facilities used for
16 distribution at retail (other than the distribution
17 only in enclosed portable containers, or distribution
18 to tenants or employees of the company operating
19 such facilities for their own use and not for resale)
20 of natural or manufactured gas for heat, light, or
21 power;

22 “(8) the term ‘holding company’ means—

23 “(A) any company that directly or indi-
24 rectly owns, controls, or holds, with power to
25 vote, 10 percent or more of the outstanding vot-

1 ing securities of a public utility company or of
2 a holding company of any public utility com-
3 pany; and

4 “(B) any person, determined by the Com-
5 mission, after notice and opportunity for hear-
6 ing, to exercise directly or indirectly (either
7 alone or pursuant to an arrangement or under-
8 standing with one or more persons) such a con-
9 trolling influence over the management or poli-
10 cies of any public utility company or holding
11 company as to make it necessary or appropriate
12 for the rate protection of utility customers with
13 respect to rates that such person be subject to
14 the obligations, duties, and liabilities imposed
15 by this Act upon holding companies;

16 “(9) the term ‘holding company system’ means
17 a holding company, together with its subsidiary com-
18 panies;

19 “(10) the term ‘jurisdictional rates’ means
20 rates established by the Commission for the trans-
21 mission of electric energy, the sale of electric energy
22 at wholesale in interstate commerce, the transpor-
23 tation of natural gas, and the sale in interstate com-
24 merce of natural gas for resale for ultimate public

1 consumption for domestic, commercial, industrial, or
2 any other use;

3 “(11) the term ‘natural gas company’ means a
4 person engaged in the transportation of natural gas
5 in interstate commerce or the sale of such gas in
6 interstate commerce for resale;

7 “(12) the term ‘person’ means an individual or
8 company;

9 “(13) the term ‘public utility’ means any person
10 who owns or operates facilities used for transmission
11 of electric energy or sales of electric energy at whole-
12 sale in interstate commerce;

13 “(14) the term ‘public utility company’ means
14 an electric utility company or a gas utility company;

15 “(15) the term ‘State commission’ means any
16 commission, board, agency, or officer, by whatever
17 name designated, of a State, municipality, or other
18 political subdivision of a State that, under the laws
19 of such State, has jurisdiction to regulate public util-
20 ity companies;

21 “(16) the term ‘subsidiary company’ of a hold-
22 ing company means—

23 “(A) any company, 10 percent or more of
24 the outstanding voting securities of which are
25 directly or indirectly owned, controlled, or held

1 with power to vote, by such holding company;
2 and

3 “(B) any person, the management of poli-
4 cies of which the Commission, after notice and
5 opportunity for hearing, determines to be sub-
6 ject to a controlling influence, directly or indi-
7 rectly, by such holding company (either alone or
8 pursuant to an arrangement or understanding
9 with one or more other persons) so as to make
10 it necessary for the rate protection of utility
11 customers with respect to rates that such per-
12 son be subject to the obligations, duties, and li-
13 abilities imposed by this Act upon subsidiary
14 companies of holding companies; and

15 “(17) the term ‘voting security’ means any se-
16 curity presently entitling the owner or holder thereof
17 to vote in the direction or management of the affairs
18 of a company.

19 **“SEC. 3. FEDERAL ACCESS TO BOOKS AND RECORDS.**

20 “(a) IN GENERAL.—Each holding company and each
21 associate company thereof shall maintain, and shall make
22 available to the Commission, such books, accounts,
23 records, memoranda, and other records as the Commission
24 deems to be relevant to costs incurred by a public utility
25 or natural gas company that is an associate company of

1 such holding company and necessary or appropriate for
2 the protection of utility customers with respect to jurisdic-
3 tional rates for the transmission of electric energy, the sale
4 of electric energy at wholesale in interstate commerce, the
5 transportation of natural gas in interstate commerce, and
6 the sale in interstate commerce of natural gas for resale
7 for ultimate public consumption for domestic, commercial,
8 industrial, or any other use.

9 “(b) AFFILIATE COMPANIES.—Each affiliate of a
10 holding company or of any subsidiary company of a hold-
11 ing company shall maintain, and make available to the
12 Commission, such books, accounts, memoranda, and other
13 records with respect to any transaction with another affil-
14 iate, as the Commission deems relevant to costs incurred
15 by a public utility or natural gas company that is an asso-
16 ciate company of such holding company and necessary or
17 appropriate for the protection of utility customers with re-
18 spect to jurisdictional rates.

19 “(c) HOLDING COMPANY SYSTEMS.—The Commis-
20 sion may examine the books, accounts, memoranda, and
21 other records of any company in a holding company sys-
22 tem, or any affiliate thereof, as the Commission deems rel-
23 evant to costs incurred by a public utility or natural gas
24 company within such holding company system and nec-

1 essary or appropriate for the protection of utility cus-
2 tomers with respect to jurisdictional rates.

3 “(d) CONFIDENTIALITY.—No member, officer, or em-
4 ployee of the Commission shall divulge any fact or infor-
5 mation that may come to his or her knowledge during the
6 course of examination of books, accounts, memoranda, or
7 other records as provided in this section, except as may
8 be directed by the Commission or by a court of competent
9 jurisdiction.

10 **“SEC. 4. STATE ACCESS TO BOOKS AND RECORDS.**

11 “(a) IN GENERAL.—Upon the written request of a
12 State commission having jurisdiction to regulate a public
13 utility company in a holding company system, the holding
14 company or any associate company or affiliate thereof,
15 other than such public utility company, wherever located,
16 shall produce for inspection such books, accounts, memo-
17 randa, and other records that—

18 “(1) have been identified in reasonable detail in
19 a proceeding before the State commission;

20 “(2) the State commission deems are relevant
21 to costs incurred by such public utility company; and

22 “(3) are necessary for the effective discharge of
23 the responsibilities of the State commission with re-
24 spect to such proceeding.

1 “(b) LIMITATION.—Subsection (a) does not apply to
2 any person that is a holding company solely by reason of
3 ownership of one or more qualifying facilities under the
4 Public Utility Regulatory Policies Act of 1978.

5 “(c) CONFIDENTIALITY OF INFORMATION.—The pro-
6 duction of books, accounts, memoranda, and other records
7 under subsection (a) shall be subject to such terms and
8 conditions as may be necessary and appropriate to safe-
9 guard against unwarranted disclosure to the public of any
10 trade secrets or sensitive commercial information.

11 “(d) EFFECT ON STATE LAW.—Nothing in this sec-
12 tion shall preempt applicable State law concerning the pro-
13 vision of books, records, or any other information, or in
14 any way limit the rights of any State to obtain books,
15 records, or any other information under any other Federal
16 law, contract, or otherwise.

17 “(e) COURT JURISDICTION.—Any United States dis-
18 trict court located in the State in which the State commis-
19 sion referred to in subsection (a) is located shall have ju-
20 risdiction to enforce compliance with this section.

21 **“SEC. 5. EXEMPTION AUTHORITY.**

22 “(a) RULEMAKING.—Not later than 90 days after the
23 effective date of this Act, the Commission shall promul-
24 gate a final rule to exempt from the requirements of sec-

1 tion 3 any person that is a holding company, solely with
2 respect to one or more—

3 “(1) qualifying facilities under the Public Util-
4 ity Regulatory Policies Act of 1978;

5 “(2) exempt wholesale generators; or

6 “(3) foreign utility companies.

7 “(b) OTHER AUTHORITY.—If, upon application or
8 upon its own motion, the Commission finds that the books,
9 records, accounts, memoranda, and other records of any
10 person are not relevant to the jurisdictional rates of a pub-
11 lic utility or natural gas company, or if the Commission
12 finds that any class of transactions is not relevant to the
13 jurisdictional rates of a public utility or natural gas com-
14 pany, the Commission shall exempt such person or trans-
15 action from the requirements of section 3.

16 **“SEC. 6. AFFILIATE TRANSACTIONS.**

17 “Nothing in this Act shall preclude the Commission
18 or a State commission from exercising its jurisdiction
19 under otherwise applicable law to determine whether a
20 public utility company, public utility, or natural gas com-
21 pany may recover in rates any costs of an activity per-
22 formed by an associate company, or any costs of goods
23 or services acquired by such public utility company from
24 an associate company.

1 **“SEC. 7. APPLICABILITY.**

2 “No provision of this Act shall apply to, or be deemed
3 to include—

4 “(1) the United States;

5 “(2) a State or any political subdivision of a
6 State;

7 “(3) any foreign governmental authority not op-
8 erating in the United States;

9 “(4) any agency, authority, or instrumentality
10 of any entity referred to in paragraph (1), (2), or
11 (3); or

12 “(5) any officer, agent, or employee of any enti-
13 ty referred to in paragraph (1), (2), or (3) acting as
14 such in the course of official duty.

15 **“SEC 8. EFFECT ON OTHER REGULATIONS.**

16 “Nothing in this Act precludes the Commission or a
17 State commission from exercising its jurisdiction under
18 otherwise applicable law to protect utility customers.

19 **“SEC. 9. ENFORCEMENT.**

20 “The Commission shall have the same powers as set
21 forth in sections 306 through 317 of the Federal Power
22 Act (16 U.S.C. 825d–825p) to enforce the provisions of
23 this Act.

24 **“SEC. 10. SAVINGS PROVISIONS.**

25 “(a) IN GENERAL.—Nothing in this Act prohibits a
26 person from engaging in or continuing to engage in activi-

1 ties or transactions in which it is legally engaged or au-
2 thorized to engage on the effective date of this Act.

3 “(b) EFFECT ON OTHER COMMISSION AUTHORITY.—
4 Nothing in this Act limits the authority of the Commission
5 under the Federal Power Act (16 U.S.C. 791a et seq.)
6 (including section 301 of that Act) or the Natural Gas
7 Act (15 U.S.C. 717 et seq.) (including section 8 of that
8 Act).

9 **“SEC. 11. IMPLEMENTATION.**

10 “Not later than 18 months after the date of enact-
11 ment of the Comprehensive Electricity Competition Act,
12 the Commission shall—

13 “(1) promulgate such regulations as may be
14 necessary or appropriate to implement this Act
15 (other than section 4); and

16 “(2) submit to the Congress detailed rec-
17 ommendations on technical and conforming amend-
18 ments to Federal law necessary to carry out this Act
19 and the amendments made by this Act.

20 **“SEC. 12. TRANSFER OF RESOURCES.**

21 “All books and records that relate primarily to the
22 functions transferred to the Commission under this Act
23 shall be transferred from the Securities and Exchange
24 Commission to the Commission.

1 **“SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

2 “There are authorized to be appropriated such funds
3 as may be necessary to carry out this Act.

4 **“SEC. 14. CONFORMING AMENDMENT TO THE FEDERAL
5 POWER ACT.**

6 “Section 318 of the Federal Power Act (16 U.S.C.
7 825q) is repealed.”.

8 **SEC. 502. ELECTRIC COMPANY MERGERS.**

9 Section 203(a) of the FPA is amended by—

10 (1) striking “public utility” each time it ap-
11 pears and inserting in its place “person or electric
12 utility company”;

13 (2) inserting after the first sentence the fol-
14 lowing: “Except as the Commission otherwise pro-
15 vides, a holding company in a holding company sys-
16 tem that includes an electric utility company shall
17 not, directly or indirectly, purchase, acquire, or take
18 any security of an electric utility company or of a
19 holding company in a holding company system that
20 includes an electric utility company, without first se-
21 curing an order of the Commission authorizing it to
22 do so.”;

23 (3) striking “hearing” in the last sentence and
24 inserting “oral or written presentation of views”;

25 (4) adding after “public interest” the following:
26 “including consideration of the effects on competi-

1 tion in wholesale and retail electricity markets,”;
2 and

3 (5) adding at the end the following: “For pur-
4 poses of this subsection, the terms ‘electric utility
5 company’, holding company’, and ‘holding company
6 system’ have the meaning given them in the Public
7 Utility Holding Company Act of 1999. Notwith-
8 standing section 201(b)(1), generation facilities are
9 subject to the jurisdiction of the Commission for
10 purposes of this section, except as the Commission
11 otherwise may provide, provided that an entity that
12 has existing loans made or guaranteed under the
13 Rural Electrification Act of 1936 (5 U.S.C. 901 et
14 seq.) is not jurisdictional for purposes of this sec-
15 tion.”.

16 **SEC. 503. REMEDIAL MEASURES FOR MARKET POWER.**

17 The FPA is amended by adding the following new
18 section after section 216 as added by section 303 of this
19 Act:

20 “REMEDIAL MEASURES FOR MARKET POWER

21 “SEC. 217. (a) DEFINITIONS.—As used in this
22 section—

23 “(1) ‘market power’ means the ability of a pub-
24 lic utility or electric utility profitably to maintain
25 prices above competitive levels for a significant pe-
26 riod of time, and

1 “(2) ‘notice of retail competition’ has the mean-
2 ing provided under section 3(22) of the Public Util-
3 ity Regulatory Policies Act of 1978.

4 “(b) COMMISSION JURISDICTIONAL SALES.—(1) If
5 the Commission determines that there are markets in
6 which a public utility that owns or controls generation fa-
7 cilities has market power in sales of electric energy for
8 resale in interstate commerce, the Commission shall order
9 that utility to submit a plan for taking necessary actions
10 to remedy its market power, which may include, but is
11 not limited to, conditions respecting operation or dispatch
12 of generation, independent operation of transmission fa-
13 cilities, or divestiture of ownership of one or more genera-
14 tion facilities.

15 “(2) In consultation with the Attorney General and
16 the Federal Trade Commission, the Commission shall re-
17 view the plan to determine if its implementation would
18 adequately mitigate the adverse competitive effects of
19 market power. The Commission may approve the plan
20 with or without modification. The plan takes effect upon
21 approval by the Commission. Notwithstanding any State
22 law, regulation, or order to the contrary and notwith-
23 standing any other provision of this Act or any other law,
24 the Commission has jurisdiction to order divestiture or

1 other transfer of control of generation assets pursuant to
2 the plan.

3 “(c) STATE JURISDICTIONAL SALES.—(1) If a State
4 commission that has filed a notice of retail competition
5 has reason to believe that an electric utility doing business
6 in the State has market power, the State commission may
7 apply for an order under this section.

8 “(2) If, after receipt of such an application and after
9 notice and opportunity for a hearing, the Commission de-
10 termines that the electric utility has market power in the
11 sales of electric energy sold at retail in the State, this mar-
12 ket power would adversely affect competition in the State,
13 and the State commission lacks authority to effectively
14 remedy such market power, the Commission may order the
15 electric utility to submit a plan for taking necessary ac-
16 tions to remedy the electric utility’s market power. These
17 actions may include conditions respecting operation or dis-
18 patch of generation, competitive procurement of all gen-
19 eration capacity or energy, independent operation of trans-
20 mission facilities, or divestiture of ownership of one or
21 more generation facilities of the electric utility.

22 “(3) After consultation with the Attorney General
23 and the Federal Trade Commission, the Commission may
24 approve the plan with or without modification. The plan
25 shall take effect upon approval by the Commission.

1 “(4) Notwithstanding any State law, regulation, or
 2 order to the contrary and notwithstanding any other provi-
 3 sion of this Act or any other law, the Commission has ju-
 4 risdiction to order divestiture or other transfer of control
 5 of generation assets pursuant to the plan.”.

6 **TITLE VI—ELECTRIC** 7 **RELIABILITY**

8 **SEC. 601. ELECTRIC RELIABILITY ORGANIZATION AND** 9 **OVERSIGHT.**

10 (a) ELECTRIC RELIABILITY ORGANIZATION AND
 11 OVERSIGHT.—The Federal Power Act is amended by add-
 12 ing the following new section after section 217:

13 “ELECTRIC RELIABILITY ORGANIZATION AND OVERSIGHT

14 “SEC. 218. (a) PURPOSE.—The purpose of this sec-
 15 tion is to provide for the establishment and enforcement
 16 of mandatory reliability standards in order to ensure the
 17 reliable operation of the bulk-power system.

18 “(b) DEFINITIONS.—As used in this section:

19 “(1) The term ‘Affiliated Regional Reliability
 20 Entity’ means an entity delegated authority under
 21 the provisions of subsection (i).

22 “(2) The term ‘Bulk-Power System’ means all
 23 facilities and control systems necessary for operating
 24 an interconnected transmission grid (or any portion
 25 thereof), including high-voltage transmission lines,
 26 substations, control centers, communications, data,

1 and operations planning facilities, and the output of
2 generating units necessary to maintain transmission
3 system reliability.

4 “(3) The term ‘Electric Reliability Organiza-
5 tion’ or ‘Organization’ means the organization ap-
6 proved by the Commission under subsection (e)(4).

7 “(4) The term ‘Entity Rule’ means a rule
8 adopted by an Affiliated Regional Reliability Entity
9 for a specific region and designed to implement or
10 enforce one or more Organization Standards. An
11 Entity Rule shall be subject to approval by the Or-
12 ganization, and once approved, shall be treated as
13 an Organization Standard.

14 “(5) The term ‘Industry Sector’ means a group
15 of Users of the Bulk Power System with substan-
16 tially similar commercial interests, as determined by
17 the board of the Electric Reliability Organization.

18 “(6) The term ‘Interconnection’ means a geo-
19 graphic area in which the operation of Bulk-Power
20 System components is synchronized such that the
21 failure of one or more of such components may ad-
22 versely affect the ability of the operators of other
23 components within the Interconnection to maintain
24 safe and reliable operation of the facilities within
25 their control.

1 “(7) The term ‘Organization Standard’ means a
2 policy or standard duly adopted by the Electric Reli-
3 ability Organization to provide for the reliable oper-
4 ation of a Bulk-Power System.

5 “(8) The term ‘Public Interest Group’ means
6 any non-profit private or public organization that
7 has an interest in the activities of the Electric Reli-
8 ability Organization, including, but not limited to,
9 ratepayer advocates, environmental groups, and
10 State and local government organizations that regu-
11 late market participants and promulgate government
12 policy.

13 “(9) The term ‘Variance’ means an exception or
14 variance from the requirements of an Organization
15 Standard (including a proposal for an Organization
16 Standard where there is no Organization Standard)
17 that is adopted by an Affiliated Regional Reliability
18 Entity and applicable to all or a part of the region
19 for which the Affiliated Regional Reliability Entity is
20 responsible. A Variance shall be subject to approval
21 by the Organization, and once approved, shall be
22 treated as an Organization Standard.

23 “(10) The term ‘System Operator’ means any
24 entity that operates or is responsible for the oper-
25 ation of a Bulk-Power System, including but not

1 limited to a control area operator, an independent
2 system operator, a transmission company, a trans-
3 mission system operator, or a regional security coor-
4 dinator.

5 “(11) The term ‘User of the Bulk-Power Sys-
6 tem’ means any entity that sells, purchases, or
7 transmits electric power over a Bulk-Power System,
8 or that owns, operates or maintains facilities or con-
9 trol systems that are part of a Bulk-Power System,
10 or that is a System Operator.

11 “(c) COMMISSION AUTHORITY.—Notwithstanding
12 any other provision of the Federal Power Act, within the
13 United States the Commission has jurisdiction over the
14 Electric Reliability Organization, all Affiliated Regional
15 Reliability Entities, all System Operators, and all Users
16 of the Bulk-Power System, for purposes of approving and
17 enforcing compliance with the requirements of this section.

18 “(d) EXISTING RELIABILITY STANDARDS.—Fol-
19 lowing enactment of this section, and prior to the approval
20 of an Organization under subsection (e), any person, in-
21 cluding the North American Electric Reliability Council
22 and its member Regional Reliability Councils, may file
23 with the Commission any reliability standard, guidance,
24 or practice, or any amendment thereto, that the person
25 would propose to be made mandatory and enforceable. The

1 Commission, after allowing interested persons an oppor-
2 tunity to submit comments, may approve the proposed
3 mandatory standard, guidance, or practice, or any amend-
4 ment thereto, if it finds that the standard, guidance, or
5 practice, or amendment is just, reasonable, not unduly dis-
6 criminatory or preferential, and in the public interest.
7 Filed standards, guidance, or practices, including any
8 amendments thereto, shall be mandatory and applicable
9 according to their terms following approval by the Com-
10 mission and shall remain in effect until—

11 “(1) withdrawn, disapproved or superseded by
12 an Organization Standard, issued or approved by the
13 Electric Reliability Organization and made effective
14 by the Commission under section (f); or

15 “(2) disapproved or suspended by the Commis-
16 sion if, upon complaint or upon its own motion and
17 after notice and an opportunity for comment, the
18 Commission finds the standard, guidance, or prac-
19 tice unjust, unreasonable, unduly discriminatory or
20 preferential, or not in the public interest.

21 Standards, guidance, or practices in effect pursuant to the
22 provisions of this subsection shall be enforceable by the
23 Commission under Part III of this Act.

24 “(e) ORGANIZATION APPROVAL.—(1) Not later than
25 90 days after the date of enactment of this section, the

1 Commission shall issue proposed rules specifying proce-
2 dures and requirements for an entity to apply for approval
3 as the Electric Reliability Organization. The Commission
4 shall provide notice and opportunity for comment on the
5 proposed rules. The Commission shall issue a final rule
6 under this subsection within 180 days after the date of
7 enactment of this section.

8 “(2) Following the issuance of a final Commission
9 rule under paragraph (1), an entity may submit an appli-
10 cation to the Commission for approval as the Electric Reli-
11 ability Organization. The applicant shall specify in its ap-
12 plication its governance and procedures, as well as its
13 funding mechanism and initial funding requirements.

14 “(3) The Commission shall provide public notice of
15 the application and afford interested parties an oppor-
16 tunity to comment.

17 “(4) The Commission shall approve the application
18 if the Commission determines that the applicant—

19 “(A) has the ability to develop, implement, and
20 enforce standards that provide for an adequate level
21 of reliability of the Bulk-Power System;

22 “(B) permits voluntary membership to any
23 User of the Bulk-Power System or Public Interest
24 Group;

1 “(C) assures fair representation of its members
2 in the selection of its directors and fair management
3 of its affairs, taking into account the need for effi-
4 ciency and effectiveness in decisionmaking and oper-
5 ations and the requirements for technical com-
6 petency in the development of Organization Stand-
7 ards and the exercise of oversight of Bulk-Power
8 System reliability;

9 “(D) assures that no two Industry Sectors have
10 the ability to control, and no one Industry Sector
11 has the ability to veto, the Electric Reliability Orga-
12 nization’s discharge of its responsibilities (including
13 actions by committees recommending standards to
14 the board or other board actions to implement and
15 enforce standards);

16 “(E) provides for governance by a board of no
17 more than eleven members, one of whom shall be ap-
18 pointed by the Secretary of Energy;

19 “(F) provides a funding mechanism and re-
20 quirements that are just, reasonable, and not unduly
21 discriminatory or preferential and are in the public
22 interest, and which satisfy the requirements of sub-
23 section (n);

24 “(G) establishes procedures for development of
25 Organization Standards that provide reasonable no-

1 tice and opportunity for public comment, taking into
2 account the need for efficiency and effectiveness in
3 decisionmaking and operations and the requirements
4 for technical competency in the development of Or-
5 ganization Standards, and which standards develop-
6 ment process has the following attributes:

7 “(i) openness,

8 “(ii) balance of interests, and

9 “(iii) due process, except that the proce-
10 dures may include alternative procedures for
11 emergencies;

12 “(H) establishes fair and impartial procedures
13 for implementation and enforcement of Organization
14 Standards, either directly or through delegation to
15 an Affiliated Regional Reliability Entity, including
16 the imposition of penalties, limitations on activities,
17 functions, or operations, or other appropriate sanc-
18 tions;

19 “(I) establishes procedures for notice and op-
20 portunity for public observation of all meetings, ex-
21 cept that the procedures for public observation may
22 include alternative procedures for emergencies or for
23 the discussion of information the directors determine
24 should take place in closed session, such as litiga-

1 tion, personnel actions, or commercially sensitive in-
2 formation;

3 “(J) provides for the consideration of rec-
4 ommendations of States and State commissions, and

5 “(K) addresses other matters that the Commis-
6 sion may deem necessary or appropriate to ensure
7 that the procedures, governance, and funding of the
8 Electric Reliability Organization are just, reason-
9 able, not unduly discriminatory or preferential, and
10 are in the public interest.

11 “(5) The Commission shall approve only one Electric
12 Reliability Organization. If the Commission receives two
13 or more timely applications that satisfy the requirements
14 of this subsection, the Commission shall approve only the
15 application it concludes will best implement the provisions
16 of this section.

17 “(f) ESTABLISHMENT OF AND MODIFICATIONS TO
18 ORGANIZATION STANDARDS.—(1) The Electric Reliability
19 Organization shall file with the Commission any new or
20 modified Organization Standards, including any Variances
21 or Entity Rules, and the Commission shall follow the pro-
22 cedures under paragraph (2) for review of that filing. Sub-
23 missions shall include—

24 “(A) a concise statement of the purpose of the
25 proposal, and

1 “(B) a record of any proceedings conducted
2 with respect to the proposal.

3 “(2) The Commission shall provide notice of the filing
4 of the proposal and afford interested persons a reasonable
5 time, but not more than 30 days, to submit comments.
6 The Commission, after taking into consideration any sub-
7 mitted comments, shall approve or disapprove the proposal
8 not later than 60 days after the deadline for the submis-
9 sion of comments, except that:

10 “(A) the Commission may extend the 60 day
11 period for an additional 90 days for good cause, and

12 “(B) if the Commission does not act to approve
13 or disapprove a proposal within the periods set forth
14 in this paragraph, the proposal shall go into effect,
15 without prejudice to the authority of the Commission
16 thereafter to suspend or modify the proposal in ac-
17 cordance with the standards and requirements of
18 this section.

19 Proposals approved by the Commission take effect accord-
20 ing to their terms but not earlier than 30 days after the
21 effective date of the Commission’s order, except as pro-
22 vided in paragraph (3).

23 “(3)(A) In the exercise of its review responsibilities
24 under this subsection, the Commission shall give due
25 weight to the technical expertise of the Electric Reliability

1 Organization with respect to the content of a new or modi-
2 fied Organization Standard, but shall not defer to the Or-
3 ganization with respect to the effect of the standard on
4 competition. The Commission shall approve a proposed
5 new or modified Organization Standard if it determines
6 the proposal to be just, reasonable, not unduly discrimina-
7 tory or preferential, and in the public interest.

8 “(B) The Commission, either upon complaint or upon
9 its own motion, shall suspend an existing Organization
10 Standard, if it determines the standard to be unjust, un-
11 reasonable, unduly discriminatory or preferential, or not
12 in the public interest.

13 “(C) An existing or proposed Organization standard
14 which is disapproved or suspended in whole or in part by
15 the Commission shall be remanded to the Electric Reli-
16 ability Organization for further consideration.

17 “(D) The Commission, on its own motion or upon
18 complaint, may direct the Electric Reliability Organization
19 to develop an Organization Standard, including modifica-
20 tion to an existing Organization Standard, addressing a
21 specific matter by a date certain if the Commission con-
22 siders a new or modified Organization Standard necessary
23 or appropriate to further the purposes of this section. The
24 Electric Reliability Organization shall file any new or

1 modified Organization Standard in accordance with this
2 subsection.

3 “(E) An Affiliated Regional Reliability Entity may
4 propose a Variance or Entity Rule to the Electric Reli-
5 ability Organization under subsection (i)(3). The Affili-
6 ated Regional Reliability Entity may request that the
7 Electric Reliability Organization expedite consideration of
8 the proposal, and may file a notice of this request with
9 the Commission, if expedited consideration is necessary to
10 provide for Bulk-Power System reliability. If the Electric
11 Reliability Organization fails to adopt the Variance or En-
12 tity Rule, either in whole or in part, the Affiliated Re-
13 gional Reliability Entity may request that the Commission
14 review such action. If the Commission determines, after
15 its review of such a request, that the action of the Electric
16 Reliability Organization did not conform to the applicable
17 standards and procedures approved by the Commission,
18 or if the Commission determines that the Variance or En-
19 tity Rule is just, reasonable, not unduly discriminatory or
20 preferential, and in the public interest, and that the Elec-
21 tric Reliability Organization has unreasonably rejected the
22 proposed Variance or Entity Rule, the Commission may
23 remand the proposed Variance or Entity Rule for further
24 consideration by the Electric Reliability Organization or
25 may direct the Electric Reliability Organization or the Af-

1 affiliated Regional Reliability Entity to develop a Variance
2 or Entity Rule consistent with that requested by the Affili-
3 ated Regional Reliability Entity. Such a Variance or Enti-
4 ty Rule proposed by an Affiliated Regional Reliability En-
5 tity shall be submitted to the Electric Reliability Organiza-
6 tion for review and filing with the Commission in accord-
7 ance with the procedures specified in this subsection.

8 “(F) Notwithstanding any other provision of this sub-
9 section, a proposed Organization Standard or amendment
10 shall take effect according to its terms if the Electric Reli-
11 ability Organization determines that an emergency exists
12 requiring that the proposed Organization Standard or
13 amendment take effect without notice or comment. The
14 Electric Reliability Organization shall notify the Commis-
15 sion immediately following this determination and shall
16 file the emergency Organization Standard or amendment
17 with the Commission not later than five days following the
18 determination and shall include in the filing an expla-
19 nation of the need for the emergency standard. Subse-
20 quently, the Commission shall provide notice of the emer-
21 gency Organization Standard or amendment for comment,
22 and shall follow the procedures set out in paragraphs (2)
23 and (3) for review of a new or modified Organization
24 Standard. An emergency Organization Standard that has
25 gone into effect shall remain in effect unless and until sus-

1 pended or disapproved by the Commission. If the Commis-
2 sion determines at any time that the emergency Organiza-
3 tion Standard or amendment is not necessary, the Com-
4 mission may suspend the emergency Organization Stand-
5 ard or amendment.

6 “(4) All Users of the Bulk-Power System shall com-
7 ply with any Organization Standard that takes effect
8 under this section.

9 “(g) COORDINATION WITH CANADA AND MEXICO.—
10 The Electric Reliability Organization shall take all appro-
11 priate steps to gain recognition in Canada and Mexico.
12 Subject to the President’s authority with respect to for-
13 eign policy, the United States shall use its best efforts to
14 enter into international agreements with the appropriate
15 governments of Canada and Mexico to provide for effective
16 compliance with Organization Standards and to provide
17 for the effectiveness of the Electric Reliability Organiza-
18 tion in carrying out its mission and responsibilities. All
19 actions taken by the Electric Reliability Organization, any
20 Affiliated Regional Reliability Entity, and the Commission
21 shall be consistent with the provisions of such inter-
22 national agreements.

23 “(h) CHANGES IN PROCEDURES, GOVERNANCE, OR
24 FUNDING.—(1) The Electric Reliability Organization shall
25 file with the Commission any proposed change in its proce-

1 dures, governance, or funding, or any changes in the Af-
2 filiated Regional Reliability Entity’s procedures, govern-
3 ance or funding relating to delegated functions, and shall
4 include with the filing an explanation of the basis and pur-
5 pose for the change.

6 “(2) A proposed procedural change may take effect
7 90 days after filing with the Commission if the change
8 constitutes a statement of policy, practice, or interpreta-
9 tion with respect to the meaning or enforcement of an ex-
10 isting procedure. Any other proposed procedural change
11 takes effect only upon a finding by the Commission, after
12 notice and opportunity for comments, that the change is
13 just, reasonable, not unduly discriminatory or preferential,
14 is in the public interest, and satisfies the requirements of
15 subsection (e)(4).

16 “(3) A change in governance or funding does not take
17 effect unless the Commission finds that the change is just,
18 reasonable, not unduly discriminatory or preferential, and
19 is in the public interest, and satisfies the requirements of
20 subsection (e)(4).

21 “(4)(A) The Commission, either upon complaint or
22 upon its own motion, may suspend a procedure or govern-
23 ance or funding provision if it determines the procedure
24 or provision does not meet the requirements of subsection

1 (e)(4) or is unjust, unreasonable, unduly discriminatory
2 or preferential, or otherwise not in the public interest.

3 “(B) The Commission, upon complaint or upon its
4 own motion, may require the Electric Reliability Organiza-
5 tion to amend the procedures, governance or funding if
6 the Commission determines that the amendment is nec-
7 essary to meet the requirements of this section. The Elec-
8 tric Reliability Organization shall file the amendment in
9 accordance with paragraph (1) of this subsection.

10 “(i) DELEGATIONS OF AUTHORITY.—(1) The Elec-
11 tric Reliability Organization shall, upon request by an en-
12 tity, enter into an agreement with the entity for the dele-
13 gation of authority to implement and enforce compliance
14 with Organization Standards approved by the Commission
15 in a specified geographic area if the Organization finds
16 that the entity requesting the delegation satisfies the re-
17 quirements of subsection (e)(4) (A), (B), (C), (D), (F),
18 and (K), and if the delegation promotes the effective and
19 efficient implementation and administration of Bulk-
20 Power System reliability. The Electric Reliability Organi-
21 zation may enter into an agreement to delegate to the enti-
22 ty any other authority, except that the Electric Reliability
23 Organization shall reserve the right to set and approve
24 standards for Bulk-Power System reliability.

1 “(2) The Electric Reliability Organization shall file
2 with the Commission any agreement entered into under
3 this subsection and any information the Commission re-
4 quires with respect to the Affiliated Regional Reliability
5 Entity to which authority is to be delegated. The Commis-
6 sion shall approve the agreement, following public notice
7 and an opportunity for comment, if it finds that the agree-
8 ment meets the requirements of paragraph (1), and is
9 just, reasonable, not unduly discriminatory or preferential,
10 and is in the public interest. A proposed delegation agree-
11 ment with an Affiliated Regional Reliability Entity orga-
12 nized on an Interconnection-wide basis shall be rebuttably
13 presumed by the Commission to promote the effective and
14 efficient implementation and administration of Bulk-
15 Power System reliability. No delegation by the Electric
16 Reliability Organization shall be valid unless approved by
17 the Commission.

18 “(3)(A) A delegation agreement entered into under
19 this subsection shall specify the procedures for an Affili-
20 ated Regional Reliability Entity to propose Entity Rules
21 or Variances for review by the Electric Reliability Organi-
22 zation.

23 “(B) With respect to any such proposal that would
24 apply on an Interconnection-wide basis, the Electric Reli-
25 ability Organization shall presume the proposal valid if

1 made by an Interconnection-wide Affiliated Regional Reli-
2 ability Entity unless the Electric Reliability Organization
3 makes a written finding that the proposal—

4 “(i) was not developed in a fair and open proc-
5 ess that provided an opportunity for all interested
6 parties to participate;

7 “(ii) has a significant adverse impact on reli-
8 ability or commerce in other Interconnections;

9 “(iii) fails to provide a level of reliability of the
10 Bulk-Power System within the Interconnection such
11 that it would constitute a serious and substantial
12 threat to public health, safety, welfare, or national
13 security; or

14 “(iv) creates a serious and substantial burden
15 on competitive markets within the Interconnection
16 that is not necessary for reliability.

17 “(C) With respect to a proposal that would apply only
18 to part of an Interconnection, the Electric Reliability Or-
19 ganization shall find the proposal valid if the Affiliated
20 Regional Reliability Entity or Entities making the pro-
21 posal demonstrate that it—

22 “(i) was developed in a fair and open process
23 that provided an opportunity for all interested par-
24 ties to participate;

1 “(ii) would not have an adverse impact on com-
2 merce that is not necessary for reliability;

3 “(iii) provides a level of Bulk-Power System re-
4 liability adequate to protect public health, safety,
5 welfare, and national security, and would not have
6 a significant adverse impact on reliability; and

7 “(iv) in the case of a Variance, is based on le-
8 gitimate differences between regions or between sub-
9 regions within the Affiliated Regional Reliability En-
10 tity’s geographic area.

11 “(D) The Electric Reliability Organization shall ap-
12 prove or disapprove the proposal within 120 days, or the
13 proposal is deemed approved. Following approval of a pro-
14 posal under this paragraph, the Electric Reliability Orga-
15 nization shall seek Commission approval pursuant to sub-
16 section (f). Affiliated Regional Reliability Entities may not
17 make requests for approval directly to the Commission ex-
18 cept pursuant to subsection (f)(3)(E).

19 “(4) If an Affiliated Regional Reliability Entity re-
20 quests, consistent with paragraph (1) of this subsection,
21 that the Electric Reliability Organization delegate author-
22 ity to it, but is unable within 180 days to reach agreement
23 with the Electric Reliability Organization with respect to
24 the requested delegation, the entity may seek relief from
25 the Commission. If, following notice and opportunity for

1 comment, the Commission determines that the delegation
2 to the entity would meet the requirements of paragraph
3 (1); that the delegation would be just, reasonable, not un-
4 duly discriminatory or preferential, and in the public inter-
5 est; and that the Electric Reliability Organization has un-
6 reasonably withheld the delegation, the Commission may,
7 by order, direct the Electric Reliability Organization to
8 make the delegation.

9 “(5)(A) The Commission may, upon its own motion
10 or upon complaint, and with notice to the appropriate Af-
11 filiated Regional Reliability Entity or Entities, direct the
12 Electric Reliability Organization to propose a modification
13 to an agreement entered into under this subsection if the
14 Commission determines that—

15 “(i) the Affiliated Regional Reliability Entity no
16 longer has the capacity to carry out effectively or ef-
17 ficiently its implementation or enforcement respon-
18 sibilities under that agreement, has failed to meet its
19 obligations under that agreement, or has violated
20 any provision of this section,

21 “(ii) the rules, practices, or procedures of the
22 Affiliated Regional Reliability Entity no longer pro-
23 vide for fair and impartial discharge of its imple-
24 mentation or enforcement responsibilities under the
25 agreement,

1 “(iii) the geographic boundary of a transmission
2 entity approved by the Commission is not wholly
3 within the boundary of an Affiliated Regional Reli-
4 ability Entity and such difference is inconsistent
5 with the effective and efficient implementation and
6 administration of Bulk-Power System reliability, or

7 “(iv) the agreement is inconsistent with another
8 delegation agreement as a result of actions taken
9 under paragraph (4) of this subsection.

10 “(B) Following an order of the Commission issued
11 under paragraph (5)(A) of this subsection, the Commis-
12 sion may suspend the affected agreement if the Electric
13 Reliability Organization or the Affiliated Regional Reli-
14 ability Entity does not propose an appropriate and timely
15 modification. If the agreement is suspended, the Electric
16 Reliability Organization shall assume the previously dele-
17 gated responsibilities. The Commission shall allow the
18 Electric Reliability Organization and the Affiliated Re-
19 gional Reliability Entity an opportunity to appeal the sus-
20 pension.

21 “(j) ORGANIZATION MEMBERSHIP.—Every System
22 Operator shall be a member of the Electric Reliability Or-
23 ganization and shall be a member of any Affiliated Re-
24 gional Reliability Entity operating under an agreement ef-
25 fective pursuant to subsection (i) applicable to the region

1 in which the System Operator operates or is responsible
2 for the operation of a Bulk-Power System facility.

3 “(k) FEDERAL POWER SYSTEMS AND NUCLEAR
4 REGULATORY COMMISSION.—Any actions taken under
5 this section by the Commission, the Electric Reliability Or-
6 ganization, and any Affiliated Regional Reliability Entity
7 shall be consistent with any statutory or treaty obligations
8 of a Federal Power Marketing Administration, the Ten-
9 nessee Valley Authority, the Bureau of Reclamation and
10 the Corps of Engineers and any Nuclear Regulatory Com-
11 mission requirements.

12 “(l) INJUNCTIONS AND DISCIPLINARY ACTION.—(1)
13 Consistent with the range of actions approved by the Com-
14 mission under subsection (e)(4)(H), the Electric Reli-
15 ability Organization may impose a penalty; may limit ac-
16 tivities, functions, or operations; or may take other dis-
17 ciplinary action the Electric Reliability Organization finds
18 appropriate against a User of the Bulk-Power System if
19 the Electric Reliability Organization, after notice and an
20 opportunity for interested parties to be heard, issues a
21 finding in writing that the User of the Bulk-Power System
22 has violated an Organization Standard approved by the
23 Commission. The Electric Reliability Organization shall
24 immediately notify the Commission of any disciplinary ac-
25 tion imposed with respect to an act of failure to act of

1 a User of the Bulk-Power System that affected or threat-
2 ened to affect Bulk-Power System facilities located in the
3 United States, and the sanctioned party shall have the
4 right to seek modification or rescission by the Commission
5 of such disciplinary action. If the Organization finds it
6 necessary to prevent a serious threat to reliability, the Or-
7 ganization may seek injunctive relief in a Federal Court
8 in the district in which the affected facilities are located.

9 “(2) A disciplinary action taken under paragraph (1)
10 may take effect not earlier than the 30th day after the
11 Electric Reliability Organization files with the Commission
12 its written finding and record of proceedings before the
13 Electric Reliability Organization and the Commission
14 posts the Organization’s written finding, unless the Com-
15 mission, on its own motion or upon application by the
16 User of the Bulk-Power System which is the subject of
17 the action, suspends the action. The action shall remain
18 in effect or remain suspended unless and until the Com-
19 mission, after notice and opportunity for hearing, affirms,
20 sets aside, modifies, or reinstates the action, but the Com-
21 mission shall conduct such a hearing under procedures es-
22 tablished to ensure expedited consideration of the action
23 taken.

24 “(3) The Commission, on its own motion, may order
25 compliance with an Organization Standard and may im-

1 pose a penalty; may limit activities, functions, or oper-
2 ations; or may take such other disciplinary action as the
3 Commission finds appropriate, against a User of the Bulk-
4 Power System with respect to actions affecting or threat-
5 ening to affect Bulk-Power System facilities located in the
6 United States if the Commission finds, after notice and
7 opportunity for a hearing, that the User of the Bulk-
8 Power System has violated or threatens to violate an Or-
9 ganization Standard.

10 “(4) The Commission may take such action as is nec-
11 essary against the Electric Reliability Organization or an
12 Affiliated Regional Reliability Entity to assure compliance
13 with an Organization Standard, or any Commission order
14 affecting the Electric Reliability Organization or an Affili-
15 ated Regional Reliability Entity.

16 “(m) RELIABILITY REPORTS.—The Electric Reli-
17 ability Organization shall conduct periodic assessments of
18 the reliability and adequacy of the interconnected Bulk-
19 Power System in North America and shall report annually
20 to the Secretary of Energy and the Commission its find-
21 ings and recommendations for monitoring or improving
22 system reliability and adequacy.

23 “(n) ASSESSMENT AND RECOVERY OF CERTAIN
24 COSTS.—The reasonable costs of the Electric Reliability
25 Organization, and the reasonable costs of each Affiliated

1 Regional Reliability Entity that are related to implementa-
2 tion and enforcement of Organization Standards or other
3 requirements contained in a delegation agreement ap-
4 proved under subsection (i), shall be assessed by the Elec-
5 tric Reliability Organization and each Affiliated Regional
6 Reliability Entity, respectively, taking into account the re-
7 lationship of costs to each region and based on an alloca-
8 tion that reflects an equitable sharing of the costs among
9 all end-users. The Commission shall provide by rule for
10 the review of such costs and allocations, pursuant to the
11 standards in this subsection and subsection (e)(4)(F).

12 “(o) RULE OF REASON STANDARD.—In any action
13 under the antitrust laws, the conduct of the Electric Reli-
14 ability Organization, of an Affiliated Regional Reliability
15 Entity operating under an agreement in effect under sub-
16 section (i), or of a member of the Electric Reliability Orga-
17 nization or an Affiliated Regional Reliability Entity, to the
18 extent such conduct is undertaken to develop or implement
19 an Organization Standard which is approved by the Com-
20 mission under subsection (f), shall not be deemed illegal
21 per se. Such conduct shall be judged on the basis of its
22 reasonableness, taking into account all relevant factors af-
23 fecting competition. For purposes of this section, “anti-
24 trust laws” has the meaning given it in subsection (a) of
25 the first section of the Clayton Act, except that such term

1 includes section 5 of the Federal Trade Commission Act
2 to the extent that such section 5 applies to unfair methods
3 of competition.”.

4 (b) CONFORMING AMENDMENTS.—(1) Section 316 of
5 the FPA is amended by striking “or 214” each place it
6 appears and inserting “214, or 218”.

7 (2) Section 316A of the FPA is amended by striking
8 “section 211, 212, 213, or 214” each time it appears and
9 inserting “Part II of this Act”.

10 **SEC. 602. ELECTRICITY OUTAGE INVESTIGATION.**

11 Title II of the Department of Energy Organization
12 Act is amended by adding the following new section after
13 section 213 as added by section 408:

14 **“SEC. 214. ELECTRICITY OUTAGE INVESTIGATION BOARD.**

15 “(a) ESTABLISHMENT; MEMBERSHIP; TERMS.—The
16 Secretary shall establish an Electricity Outage Investiga-
17 tion Board. The Board shall consist of five members, ap-
18 pointed by the Secretary. Each member shall serve a term
19 of three years.

20 “(b) DUTIES.—The Board shall—

21 “(1) investigate a major bulk-power system fail-
22 ure in the United States to determine its causes,

23 “(2) report to the Secretary the results of the
24 investigation, and

1 “(3) recommend to the Secretary actions to
2 minimize the possibility of a future bulk-power sys-
3 tem failure.

4 “(c) FEDERAL ADVISORY COMMITTEE ACT.—The
5 Board shall not be subject to the Federal Advisory Com-
6 mittee Act (5 U.S.C. Appx.).”.

7 **SEC. 603. ADDITIONAL TRANSMISSION CAPACITY.**

8 Section 209 of PURPA is amended by adding a new
9 subsection after subsection (c):

10 “(d) CONSIDERATION OF ADDITIONAL TRANS-
11 MISSION CAPACITY.—The Secretary may call and chair a
12 meeting of representatives of States in a region in order
13 to discuss provision of additional transmission capacity
14 and related concerns in such region.”.

15 **TITLE VII—ENVIRONMENTAL**
16 **PROTECTION**

17 **SEC. 701. NITROGEN OXIDES CAP AND TRADE PROGRAM.**

18 (a) PURPOSE.—The purpose of this section is to fa-
19 cilitate the implementation of a regional strategy for re-
20 ducing ambient concentrations of ozone through regional
21 reductions in emissions of NO_x.

22 (b) DEFINITIONS.—For purposes of this section—

23 (1) the term “Administrator” means the Ad-
24 ministrator of the Environmental Protection Agency.

25 (2) the term “NO_x” means oxides of nitrogen,

1 (3) term “NO_x allowance” means an authoriza-
2 tion to emit a specified amount of NO_x into the at-
3 mosphere, and

4 (4) the term “NO_x allowance cap and trade
5 program” means a program under which, in accord-
6 ance with regulations issued by the Administrator,
7 the Administrator establishes the maximum number
8 of NO_x allowances that may be allocated for speci-
9 fied control periods, allocates or authorizes a State
10 to allocate NO_x allowances, allows the transfer of
11 NO_x allowances for use in States subject to such a
12 program, requires monitoring and reporting of NO_x
13 emissions that meet the requirements of section 412
14 of the Clean Air Act, and prohibits, and requires
15 penalties and offsets for, any emissions of NO_x in
16 excess of the number of NO_x allowances held.

17 (c) PROGRAM IMPLEMENTATION.—(1) If the Admin-
18 istrator determines under section 110(a)(2)(D) of the
19 Clean Air Act that any source or other type of emissions
20 activity in a State emits NO_x in amounts that will con-
21 tribute significantly to nonattainment in, or interfere with
22 maintenance by, any other State with respect to any na-
23 tional ambient air quality standard for ozone, the Admin-
24 istrator shall establish by regulation, within 12 months of
25 the determination for primary standards and as expedi-

1 tiously as practicable for secondary standards, and shall
2 administer a NO_x allowance cap and trade program in
3 all States in which such a source or other type of emissions
4 activity is located.

5 (2) Any NO_x allowance cap and trade program shall
6 contribute to providing for emissions reductions that miti-
7 gate adequately the contribution or interference and shall
8 be taken into account by the Administrator in determining
9 compliance with section 110(a)(2)(D) of the Clean Air
10 Act.

11 (3) For purposes of sections 113, 114, 304, and 307
12 of the Clean Air Act, regulations promulgated under this
13 section shall be treated as regulations promulgated under
14 title IV of the Clean Air Act (entitled Acid Deposition
15 Control). A requirement of regulations promulgated under
16 this section is considered an “emission standard” or
17 “emission limitation” within the meaning of section 302
18 of the Clean Air Act and an “emission standard or limita-
19 tion under this Act” within the meaning of section 304
20 of the Clean Air Act.

1 **TITLE VIII—FEDERAL POWER**
2 **SYSTEMS**
3 **Subtitle A—Tennessee Valley**
4 **Authority**

5 **SEC. 801. DEFINITION.**

6 Section 3 of the Federal Power Act is amended by
7 adding after paragraph (25) the following new paragraph:

8 “(26) ‘TVA’ means the Tennessee Valley Au-
9 thority, an agency and instrumentality of the United
10 States created by the Tennessee Valley Authority
11 Act of 1933;”.

12 **SEC. 802. APPLICATION OF FEDERAL POWER ACT.**

13 Part II of the Federal Power Act is amended by add-
14 ing the following new section after section 201:

15 “APPLICATION TO FEDERAL POWER SYSTEMS

16 “SEC. 201A. (a) After January 1, 2003, sections 202
17 (h) and (i), 203 (with respect to dispositions of trans-
18 mission facilities), 205, 206, 208, and 210 through 213
19 of this Part and sections 301 through 304, 306, 307 (ex-
20 cept the last sentence of paragraph (c)), 308, 309, 313,
21 and 317 of Part III apply to TVA’s transmission facilities
22 and transmission of electric energy and the provision of
23 necessary associated services over the TVA Transmission
24 System, except that any determination made by the Com-
25 mission under those provisions as to whether an action

1 or matter is just, reasonable, or not unduly discriminatory
2 or preferential shall be subject to any other laws applicable
3 to TVA, including the requirement that TVA recover its
4 costs.”.

5 **SEC. 803. ANTITRUST COVERAGE.**

6 The Tennessee Valley Authority Act of 1933 (16
7 U.S.C. 831–831ee) is amended by adding the following
8 after section 21:

9 **“SEC. 21a. ANTITRUST LAWS.**

10 “(a) Subject to subsection (b), effective January 1,
11 2003, the Tennessee Valley Authority is subject to the
12 antitrust laws of the United States with respect to the op-
13 eration of its electric power system. For purposes of this
14 section, ‘antitrust laws’ has the meaning given it in sub-
15 section (a) of the first section of the Clayton Act (15
16 U.S.C. 12(a)), except that it includes the Act of June 19,
17 1936 (15 U.S.C. 13 et seq.), commonly known as the Rob-
18 inson-Patman Act, and section 5 of the Federal Trade
19 Commission Act (15 U.S.C. 45), to the extent that section
20 5 applies to unfair methods of competition.

21 “(b) No damages, interest on damages, costs, or at-
22 torney’s fees may be recovered under section 4, 4A, or 4C
23 of the Clayton Act (15 U.S.C. 15, 15a, or 15c) from the
24 Tennessee Valley Authority.”.

1 **SEC. 804. TVA POWER SALES.**

2 The Tennessee Valley Authority Act of 1933 (16
3 U.S.C. 831–831ee) is amended by adding the following
4 after section 15d:

5 **“SEC. 15e. SALE OF ELECTRIC POWER AT WHOLESALE AND**
6 **RETAIL.**

7 “(a) For the purposes of this section:

8 “(1) ‘distributor’ means an electric power sys-
9 tem that—

10 “(A) is owned by a cooperative organiza-
11 tion or by a municipality or other public body
12 (or any successor in interest), and

13 “(B) on the date of enactment of this sec-
14 tion, purchased electric power at wholesale from
15 the Tennessee Valley Authority under an all-re-
16 quirements power contract; and

17 “(2) ‘distributor service area’ means the geo-
18 graphic area within which a distributor is authorized
19 on the date of enactment of this section to provide
20 electric power at retail to the ultimate consumer.

21 “(b)(1) Effective January 1, 2003, the Tennessee
22 Valley Authority may sell electric power at wholesale to
23 any person.

24 “(2) Beginning January 1, 2003, the Tennessee Val-
25 ley Authority shall not sell power at retail, except it may

1 sell power to a retail customer who consumes that power
2 within a distributor service area, if—

3 “(A) the customer (or predecessor in interest)
4 purchased electric power directly from the Tennessee
5 Valley Authority as a retail customer on the date of
6 enactment of this section, or

7 “(B) the distributor’s firm power purchases
8 from the Tennessee Valley Authority are 50 percent
9 or less of its total retail sales, or

10 “(C) the distributor agrees that the Tennessee
11 Valley Authority can sell power to the customer.

12 Nothing in this paragraph shall prohibit the Tennessee
13 Valley Authority from continuing to serve a retail cus-
14 tomer which the Tennessee Valley Authority was serving
15 on the date of enactment of this section that is not located
16 within a distributor service area.

17 “(3) Notwithstanding any other provision of law, the
18 rates, terms, and conditions of retail electric service, and
19 rates for the use of distribution lines are not subject to
20 regulation by the Tennessee Valley Authority.”.

21 **SEC. 805. RENEGOTIATION OF LONG-TERM POWER CON-**
22 **TRACTS.**

23 Section 15e of the Tennessee Valley Authority Act
24 of 1933 (16 U.S.C. 831–831ee) as added by section 804

1 of this Act is amended by adding the following after sub-
2 section (b):

3 “(c)(1) Within one year following the date of enact-
4 ment of this section, the Tennessee Valley Authority and
5 the distributors shall renegotiate their existing long-term
6 contracts with respect to—

7 “(A) the remaining term;

8 “(B) the length of the termination notice;

9 “(C) the amount of power a distributor may
10 purchase from a supplier other than the Tennessee
11 Valley Authority beginning January 1, 2003, and ac-
12 cess to the Tennessee Valley Authority transmission
13 system for that power; and

14 “(D) stranded cost recovery.

15 “(2) If the parties are unable to reach agreement
16 with regard to any of the issues under paragraph (1) with-
17 in the one-year period set forth in paragraph (1), they
18 shall submit the issue in dispute to the Federal Energy
19 Regulatory Commission for final resolution.”.

20 **SEC. 806. STRANDED COST RECOVERY.**

21 (a) Section 206 of the Federal Power Act is amended
22 by adding the following new subsection after subsection
23 (e) as added by section 301(b) of this Act:

24 “(f)(1) Within one year of the date of enactment of
25 this subsection, the Commission shall promulgate regula-

1 tions with respect to TVA’s recovery of stranded costs (as
2 defined by the Commission) imposed on TVA resulting
3 from wholesale or retail competition. These regulations
4 shall provide that—

5 “(A) a customer that did not cause costs to be
6 stranded is not obligated to pay those costs on be-
7 half of other customers;

8 “(B) no stranded investment recovery charge
9 shall have the effect of unfairly shifting costs among
10 distributors or TVA retail customers;

11 “(C) for a stranded cost recovery charge TVA
12 assesses on a retail or wholesale customer, TVA
13 shall unbundle the charge from other retail or whole-
14 sale rates applicable to that customer and state the
15 charge separately on the customer’s bill; and

16 “(D) TVA shall not impose a stranded cost re-
17 covery charge after September 30, 2007, unless the
18 person against whom the charge is assessed agrees
19 otherwise.

20 “(2) After notice and opportunity for comment, TVA
21 shall submit a stranded cost recovery plan to the Commis-
22 sion for review and approval.

23 “(3) The Commission shall review the recovery plan
24 and shall approve the recovery plan if the Commission de-
25 termines the plan to be just and reasonable and not un-

1 duly discriminatory or preferential and consistent with the
2 requirements of regulations issued under paragraph (1).
3 TVA may recover stranded costs only pursuant to a recov-
4 ery plan approved by the Commission.”.

5 (b) Section 15e of the Tennessee Valley Authority Act
6 of 1933 (16 U.S.C. 831–831ee) as added by section 804
7 of this Act is amended by adding the following after sub-
8 section (c) as added by section 805 of this Act:

9 “(d) Amounts recovered by the Tennessee Valley Au-
10 thority as stranded cost recovery charges under section
11 206(f) of the Federal Power Act shall be used to pay down
12 TVA’s debt to the extent determined by the TVA Board
13 to be consistent with the proper financial management of
14 the TVA power system, provided that TVA may not use
15 amounts recovered to pay for additions to TVA’s gener-
16 ating capacity.”.

17 (c) Section 9106 of title 31, United States Code, is
18 amended by adding the following new subsection after sub-
19 section (b):

20 “(c) Beginning in fiscal year 2003, as part of the an-
21 nual management report submitted by the Tennessee Val-
22 ley Authority (TVA) to Congress under this section, TVA
23 shall also specifically report—

24 “(1) the status of TVA’s long-range financial
25 plans and the progress toward its goal of competi-

1 tively priced power, and a general discussion of
2 TVA's prospects on meeting the objectives of the
3 Ten Year Business Outlook issued on July 22, 1997;

4 “(2) any changes in assumptions since the pre-
5 vious report that may have a material effect on
6 TVA's long-range financial plans;

7 “(3) the source of funds used for any capacity
8 additions;

9 “(4) the use of other disposition of amounts re-
10 covered by TVA under this section;

11 “(5) the amount by which TVA's publicly-held
12 debt was reduced; and

13 “(6) the projected amount by which TVA's pub-
14 licly-held debt will be reduced.”.

15 **SEC. 807. CONFORMING AMENDMENTS.**

16 Effective January 1, 2003—

17 (1) section 15d(a) of the Tennessee Valley Au-
18 thority Act of 1933 (16 U.S.C. 831n-4(a)), which
19 limit the sales or delivery of electric power by TVA
20 or distributors outside a certain geographic area, is
21 repealed;

22 (2) subsections (f) and (j) of section 212 of the
23 Federal Power Act (16 U.S.C. 824k(f) and (j)) are
24 repealed; and

1 (3) the third provisos of section 10 of the Ten-
2 nessee Valley Authority Act of 1933 (16 U.S.C.
3 831i) and the second and third provisos of section
4 12 of the Tennessee Valley Authority Act of 1933
5 (16 U.S.C. 831k) do not apply to a wholesale sale
6 of electric energy by the Tennessee Valley Authority.

7 **Subtitle B—Bonneville Power** 8 **Administration**

9 **SEC. 811. DEFINITIONS.**

10 Section 3 of the Federal Power Act is amended by
11 adding the following new paragraphs after paragraph (26)
12 as added by section 801 of this Act:

13 “(27) ‘Bonneville Administrator’ means the Ad-
14 ministrator of the Bonneville Power Administration;

15 “(28) ‘Pacific Northwest’ has the meaning
16 given that term in section 3(14) of the Pacific
17 Northwest Electric Power Planning and Conserva-
18 tion Act (16 U.S.C. 839a(14));

19 “(29) ‘Bonneville Transmission System’ means
20 transmission facilities owned or leased by the United
21 States, acting through the Bonneville Administrator,
22 and operated by the Bonneville Administrator or an-
23 other entity under section 202(h) or (i) of this Act;”.

1 **SEC. 812. APPLICATION OF FEDERAL POWER ACT.**

2 Section 201A of the Federal Power Act as added by
3 section 802 of this Act is amended by adding the following
4 new subsection after subsection (a):

5 “(b) BONNEVILLE POWER ADMINISTRATION.—After
6 September 30, 2001, sections 202(h) and (i), 203 (with
7 respect to dispositions of transmission facilities), 205,
8 206, 208, and 210 through 213 of this Part and sections
9 301 through 304, 306, 307 (except the last sentence of
10 paragraph (c)), 308, 309, 313, and 317 of Part III apply
11 to transmission facilities and transmission of electric en-
12 ergy and the provision of necessary associated services
13 over the Bonneville Transmission System, provided that—

14 “(1) any determination made under those sec-
15 tions as to whether an action or matter is just rea-
16 sonable, not unduly discriminatory or preferential
17 shall be subject to—

18 “(A) phasing in Commission-ordered
19 changes in transmission rates or charges that
20 would cause unreasonable cost shifts among
21 users of the Bonneville Transmission System if
22 implemented at once;

23 “(B) mitigating unreasonable adverse im-
24 pacts on remote transmission customers in the
25 Pacific Northwest that would otherwise result
26 from Commission-ordered changes in the his-

1 toric treatment of costs to acquire transmission
2 to serve customers historically served by Gen-
3 eral Transfer Agreements entered into between
4 the Bonneville Administrator and other trans-
5 mission providers;

6 “(C) complying with requirements of other
7 laws applicable to the Bonneville Administrator;

8 “(D) assuring the Bonneville Administra-
9 tor’s transmission rates and charges are estab-
10 lished sufficient to—

11 “(i) recover existing and future Fed-
12 eral investment in the Bonneville Trans-
13 mission System over a reasonable number
14 of years after first meeting all the Bonne-
15 ville Administrator’s other transmission
16 costs and expenses; and

17 “(ii) produce the revenues necessary
18 to assure timely payment of all trans-
19 mission related costs and expenses, includ-
20 ing revenues to establish reserves;

21 “(E) rules established by the Commission
22 to—

23 “(i) assure transmission access is pro-
24 vided over the Bonneville Transmission
25 System for hydroelectric power that must

1 be generated and transmitted at a par-
2 ticular time in order to reduce spill and
3 levels of dissolved nitrogen gas harmful to
4 fish, and

5 “(ii) govern compensation to adversely
6 affected transmission users when capacity
7 is made available for transmission of hy-
8 droelectric power in those circumstances;
9 and

10 “(F) subsection 205(g) of this Act; and

11 “(2) these sections shall not apply to—

12 “(A) the Bonneville Administrator’s activi-
13 ties other than transmission of electric energy
14 and provision of necessary associated services
15 over the facilities of the Bonneville Trans-
16 mission System; or

17 “(B) a contract in effect on the date of en-
18 actment of this section, except for rates which
19 are adjustable by the Administrator under the
20 contract; a Treaty of the United States; or a
21 contract concerning the physical delivery of en-
22 ergy and capacity entered into by entities des-
23 ignated pursuant to such a Treaty.”.

1 **SEC. 813. SURCHARGE ON TRANSMISSION RATES TO RE-**
2 **COVER OTHERWISE NON-RECOVERABLE**
3 **COSTS.**

4 Section 205 of the Federal Power Act is amended by
5 adding the following after subsection (f):

6 “(g)(1) Subject to the requirements of paragraph (2),
7 the Bonneville Administrator shall propose and the Com-
8 mission shall establish a mechanism pursuant to this sec-
9 tion that enables the Administrator to place a surcharge
10 on rates for transmission services over the Bonneville
11 Transmission System when necessary in order to recover
12 power costs unable to be recovered through power reve-
13 nues in time to meet the cost recovery requirements of
14 section 7(a) of the Pacific Northwest Electric Power Plan-
15 ning and Conservation Act (16 U.S.C. 839e(a)(1)).

16 “(2) The transmission surcharge mechanism set forth
17 in paragraph (1) shall—

18 “(A) recover not more than \$600 million in
19 total and no more than \$100 million in any fiscal
20 year;

21 “(B) be available only between October 1, 2001,
22 and October 1, 2016;

23 “(C) be implemented by the Bonneville Admin-
24 istrator only when the Bonneville Administrator
25 projects that available financial reserves attributable

1 to the power function will be less than \$150 million;
2 and

3 “(D) to the fullest extent possible, be designed
4 and established to recover the costs from trans-
5 mission users in a manner that—

6 “(i) minimized any effect on transmission
7 users’ choices among competing suppliers or
8 products,

9 “(ii) does not apply to use of the Bonne-
10 ville Transmission System for power sales out-
11 side the Pacific Northwest, and

12 “(iii) minimizes bypass of the Bonneville
13 Transmission System by transmission users
14 seeking to avoid the surcharge.

15 “(3) The Bonneville Administrator shall have sole
16 discretion to determine whether to implement the cost re-
17 covery mechanism established by the Commission under
18 paragraph (1). Before imposing the surcharge, the Bonne-
19 ville Administrator shall conduct a public process in the
20 Pacific Northwest to receive comment on implementation
21 of the surcharge. As a part of that public process, the
22 Bonneville Administrator shall make available information
23 concerning the need for and amount of the surcharge. If
24 the Bonneville Administrator decides to implement a sur-
25 charge, it shall take effect on the Bonneville Administra-

1 tor's proposed effective date, but no earlier than sixty days
2 following the Administrator's filing of the proposed sur-
3 charge to the Commission for approval.

4 “(4)(A) Within 120 days after the effective date of
5 the surcharge, the Commission shall approve, reject, or
6 modify the surcharge and communicate its decision to the
7 Bonneville Administrator. In conducting its review, the
8 Commission shall not consider the appropriateness of the
9 cost recovery mechanism established by the Commission
10 under paragraph (1).

11 “(B) If the Commission rejects or modifies the sur-
12 charge, the Commission may order the Bonneville Admin-
13 istrator to refund, with interest, the portion of the sur-
14 charge the Commission found not justified or the Commis-
15 sion may authorize the Bonneville Administrator to re-
16 cover amounts from customers who underpaid or did not
17 pay the surcharge. If the Commission orders modification
18 of the Bonneville Administrator's surcharge, such modi-
19 fied charge shall be effective on the date and for the time
20 period specified by the Commission.

21 “(5) Any payment of power costs through application
22 of transmission revenues collected by surcharge or other-
23 wise shall be treated as a loan to the Bonneville Adminis-
24 trator's power function. The Bonneville Administrator
25 shall repay the loan as soon as possible from power func-

1 tion revenues once the Bonneville Administrator is able
2 to meet other power cost recovery and Treasury repay-
3 ment obligations on an annual basis using power revenues
4 and, to the extent practicable, refund such revenues to all
5 transmission customers charged the surcharge. The bor-
6 rowed revenues shall bear interest at a rate determined
7 appropriate by the Commission.

8 “(6) For the recovery of costs relating to any genera-
9 tion or conservation resources financed by debt issued by
10 a non-Federal party before October 1, 1998, and secured
11 by an obligation of the Bonneville Administrator to make
12 payments or net bill power and transmission service that
13 cannot be recovered through power rates and charges and
14 paid in accordance with the application of revenues and
15 the priority of payments specified by Section 13(b) of the
16 Federal Columbia River Transmission System Act of 1974
17 (16 U.S.C. 838K(b)), the provisions of this section apply,
18 except for the recovery limitations under paragraph (2)(A)
19 and the time limits under paragraph (2)(B), but only to
20 the extent such recovery would have been allowed under
21 laws applicable to the Bonneville Administrator as of Oc-
22 tober 1, 1998. In reviewing this surcharge request, the
23 Commission shall apply the standard of review applicable
24 as of October 1, 1998.”.

1 **SEC. 814. COMPLAINTS.**

2 Section 306 of the Federal Power Act is amended by
3 inserting “agency or instrumentality of the United
4 States,” after “person,” in the first sentence.

5 **SEC 815. REVIEW OF COMMISSION ORDERS.**

6 Section 313 of the Federal Power Act is amended by
7 inserting “agency or instrumentality of the United
8 States,” after “person,” in the first sentence in subsection
9 (a).”.

10 **SEC. 816. CONFORMING AMENDMENTS.**

11 (a) Section 201(f) of the Federal Power Act is
12 amended by striking “No” and inserting “(1) Except as
13 provided in sections 201A and 202(h)–(i), no”.

14 (b) Section 212(i) of the Federal Power Act (16
15 U.S.C. 824(i)) is repealed.

16 (c) Section 6 of the Federal Columbia River Trans-
17 mission System Act (16 U.S.C. 838d) is repealed.

18 (d) Section 9 of the Federal Columbia River Trans-
19 mission System Act (16 U.S.C. 838g) is amended to read
20 as follows:

21 “RATES AND CHARGES

22 “SEC. 9. Schedules of rates and charges for the sale,
23 including dispositions to a Federal agency, of all electric
24 power made available to the Administrator pursuant to
25 section 8 of this Act or otherwise acquired shall be
26 established—

1 “(1) with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles;

2 “(2) having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing such electric power, including the amortization of the capital investment allocated to power over a reasonable period of years and payments provided for in section 11(b)(9) of this Act; and

3 “(3) at levels to produce such additional power revenues as may be required, in the aggregate with all other power revenues of the Administrator, to pay when due the principal of, premiums, discounts, and expenses in connection with the issuance of and interest on all bonds issued and outstanding pursuant to this Act for other than the construction, acquisition, and replacement of the Federal transmission system, and amounts required to establish and maintain reserve and other funds and accounts established in connection therewith.

4 Electric power rates under this section shall be established by the Administrator in accordance with section 7 of the

1 Pacific Northwest Electric Power Planning and Conserva-
2 tion Act.”.

3 (e) Section 10 of the Federal Columbia River Trans-
4 mission System Act (16 U.S.C. 838h) is repealed.

5 (f) Section 6 of the Pacific Northwest Regional Pref-
6 erence Act (16 U.S.C. 837e) is amended by striking the
7 “Federal energy or” in the first sentence and by striking
8 the second sentence.

9 (g) Section 7(a)(1) of the Pacific Northwest Electric
10 Power Planning and Conservation Act (16 U.S.C.
11 839e(a)(1)) is amended to read as follows:

12 “(a)(1) The Administrator shall establish, and peri-
13 odically review and revise, rates for the sale and disposi-
14 tion of electric power and shall periodically review and,
15 if necessary, propose revisions to rates for the trans-
16 mission of electric power. Rates for the sale and disposi-
17 tion of electric power shall be established and, as appro-
18 priate, revised to recover, in accordance with sound busi-
19 ness principles, the costs associated with the acquisition
20 and conservation of electric power, including the amortiza-
21 tion of the Federal investment allocable to electric power
22 rates in the Federal Columbia River Power System (in-
23 cluding irrigation electric-power related costs required to
24 be repaid out of electric power revenues) over a reasonable
25 period of years and the other costs and expenses incurred

1 by the Administrator pursuant to this Act and other provi-
2 sions of law. Rates for the sale and disposition of electric
3 power shall be established in accordance with section 9
4 of the Federal Columbia River Transmission System Act
5 (16 U.S.C. 838g), section 5 of the Flood Control Act of
6 1944 (16 U.S.C. 825s), and this Act.”.

7 (h) Section 7(a)(2) of the Pacific Northwest Electric
8 Power Planning and Conservation Act (16 U.S.C.
9 839e(a)(2)) is amended by—

10 (1) striking “Rates” and inserting “Power
11 rates”;

12 (2) inserting “and” after the comma in sub-
13 paragraph (A);

14 (3) striking “, and” and inserting a period at
15 the end of subparagraph (B); and

16 (4) striking subparagraph (C).

17 (i) Section 7(i) of the Pacific Northwest Electric
18 Power Planning and Conservation Act (16 U.S.C. 839(i))
19 is amended by inserting “power” immediately after “es-
20 tablishing” in the first sentence.

21 (j) Section 9(d) of the Pacific Northwest Electric
22 Power Planning and Conservation Act (16 U.S.C.
23 839f(d)) is amended by striking “transmission access,”
24 and inserting “power” immediately before “services” in
25 the second sentence.

1 (k) Section 9(i)(3) of the Pacific Northwest Electric
2 Power Planning and Conservation Act (16 U.S.C.
3 839f(i)(3)) is amended by inserting “power” immediately
4 before “services” each time it appears, and by striking
5 “transmission,” in the first sentence.

6 (l) Section 2(e) of the Bonneville Project Act (16
7 U.S.C. 832a(e)) is amended by striking the colon and all
8 that follows and inserting a period.

9 **Subtitle C—Western Area Power**
10 **Administration and South-**
11 **western Area Power Adminis-**
12 **tration**

13 **SEC. 821. DEFINITIONS.**

14 Section 3 of the Federal Power Act is amended by
15 adding the following new paragraphs after paragraph (29)
16 as added by subsection 811:

17 “(30) ‘SWPA Administrator’ means the Admin-
18 istrator of the Southwestern Power Administration;

19 “(31) ‘SWPA Transmission System’ means
20 transmission facilities owned or controlled by the
21 United States and operated by the SWPA Adminis-
22 trator or an entity with authority over these facili-
23 ties under section 202(h) or (i) of this Act;

1 “(32) ‘WAPA Administrator’ means the Admin-
2 istrator of the Western Area Power Administration;
3 and

4 “(33) ‘WAPA Transmission System’ means
5 transmission facilities owned or controlled by the
6 United States and operated by the WAPA Adminis-
7 trator or an entity with authority over these facili-
8 ties under section 202(h) or (i) of this Act.”.

9 **SEC. 822. APPLICATION OF FEDERAL POWER ACT.**

10 Section 201A of the Federal Power Act as added by
11 section 802 of this Act is amended by adding the following
12 new subsection after subsection (b) as added by section
13 812 of this Act:

14 “(c) WESTERN AREA POWER ADMINISTRATION AND
15 SOUTHWESTERN POWER ADMINISTRATION.—After Sep-
16 tember 30, 2001, sections 202 (h) and (i), 203 (with re-
17 spect to dispositions of transmission facilities), 205, 206,
18 208, and 210 through 213 of this Part and sections 301
19 through 304, 306, 307 (except the last sentence of para-
20 graph (e)), 308, 309, 313, and 317 of Part III apply to
21 transmission facilities and transmission of electric energy
22 over the SWPA and WAPA Transmission Systems and the
23 provision of necessary associated services over the SWPA
24 and WAPA Transmission Systems, provided that—

1 “(1) any determination made under those sec-
2 tions as to whether an action or matter is just, rea-
3 sonable, not unduly discriminatory or preferential
4 shall be subject to—

5 “(A) phasing in Commission-ordered
6 changes in transmission rates or charges that
7 would cause unreasonable cost shifts among
8 users of the SWPA and WAPA Transmission
9 Systems if implemented at once;

10 “(B) complying with requirements of other
11 laws applicable to the SWPA and WAPA Ad-
12 ministrators;

13 “(C) assuring the transmission rates and
14 charges of the SWPA and WAPA Administra-
15 tors are established sufficient to—

16 “(i) recover existing and future Fed-
17 eral investment in the transmission system
18 over a reasonable number of years after
19 first meeting all other transmission costs
20 and expenses; and

21 “(ii) produce the revenues necessary
22 to assure timely payment of all trans-
23 mission related costs and expenses, includ-
24 ing revenues to establish reserves;

25 “(D) subsection 205(h) of this Act; and

1 “(E) permitting the WAPA Administrator
 2 to establish more than one rate for the trans-
 3 mission facilities of its regions or projects; and
 4 “(2) these sections shall not apply to—

5 “(A) activities of the SWPA and WAPA
 6 Administrators other than transmission of elec-
 7 tric energy and provision of necessary associ-
 8 ated services over the facilities of their respec-
 9 tive systems; or

10 “(B) a contract in effect on the date of en-
 11 actment of this Act, except for rates which are
 12 adjustable by the Administrator under the con-
 13 tract.”.

14 **SEC. 823. SURCHARGE ON TRANSMISSION RATES TO RE-**
 15 **COVER OTHERWISE NON-RECOVERABLE**
 16 **COSTS.**

17 Section 205 of the Federal Power Act is amended by
 18 adding the following after subsection (g) as added by sec-
 19 tion 814 of this Act:

20 “(h)(1) The Commission shall establish rules for
 21 Commission approval of a surcharge on rates or charges
 22 for transmission services over the SWPA and WAPA
 23 transmission systems, including a reasonable limitation on
 24 amounts to be recovered under the surcharge and such
 25 other rules necessary to ensure that the surcharge mini-

1 mizes any effect of transmission users' choice among com-
2 peting suppliers or products and reflects cost causation,
3 in order to recover power costs unable to be recovered
4 through power revenues in time to meet statutory or regu-
5 latory cost recovery requirements.

6 “(2) The SWPA and WAPA Administrators shall
7 have sole discretion to determine whether to implement
8 the cost recovery mechanism established by the Commis-
9 sion under paragraph (1) for their respective transmission
10 systems. Before imposing the surcharge, the Adminis-
11 trator shall conduct a public process to receive comment
12 on implementation of the surcharge. As a part of that pub-
13 lic process, the Administrator shall make available infor-
14 mation concerning the need for and amount of the sur-
15 charge. If the Administrator decides to implement a sur-
16 charge, it shall take effect on the Administrator's proposed
17 effective date, but no earlier than sixty days following the
18 Administrator's filing of the proposed surcharge to the
19 Commission for approval.

20 “(3)(A) Within 120 days after the effective date of
21 the surcharge, the Commission shall approve, reject, or
22 modify the surcharge and communicate its decision to the
23 Administrator. In conducting its review, the Commission
24 shall not consider the appropriateness of the cost recovery

1 mechanism established by the Commission under para-
2 graph (1).

3 “(B) If the Commission rejects or modifies the sur-
4 charge, the Commission may order the Administrator to
5 refund, with interest, the portion of the surcharge the
6 Commission found not justified or the Commission may
7 authorize the Administrator to recover amounts from cus-
8 tomers who underpaid or did not pay the surcharge. If
9 the Commission orders modification of the Administrator’s
10 surcharge, such modified charge shall be effective on the
11 date and for the time period specified by the Commission.

12 “(4) Any payment of power costs through application
13 of transmission revenues collected by surcharge or other-
14 wise shall be treated as a loan to the Administrator’s
15 power function. The Administrator shall repay the loan
16 as soon as possible from power function revenues once the
17 Administrator is able to meet other power cost recovery
18 and Treasury repayment obligations on an annual basis
19 using power revenues, and, to the extent practicable, re-
20 fund such revenues to all transmission customers charged
21 the surcharge. The borrowed revenues shall bear interest
22 at a rate determined appropriate by the Commission.”.

23 **SEC. 824. CONFORMING AMENDMENTS.**

24 (a) Section 302(a)(1) of the Department of Energy
25 Organization Act (42 U.S.C. 7152) is amended by—

1 (1) striking “There” and inserting in its place
 2 “Except for the authority addressed in paragraph
 3 (G) below, there”, and

4 (2) adding the following new subparagraph
 5 after subparagraph (E):

6 “(F) Authority for the approval, rejection,
 7 and modification of transmission rates for the
 8 Southwestern and Western Area Power Admin-
 9 istrations is transferred to the Federal Energy
 10 Regulatory Commission.”.

11 (b) Section 221 of the Reclamation Reform Act of
 12 1982 (43 U.S.C. 390uu) is amended by—

13 (1) striking “executed pursuant to Federal rec-
 14 lamation law”, and

15 (2) inserting “as defined in section 202 of this
 16 Act” after “contract”.

17 **TITLE IX—OTHER PROVISIONS**

18 **SEC. 901. TREATMENT OF NUCLEAR DECOMMISSIONING**

19 **COSTS IN BANKRUPTCY.**

20 Section 523 of title 11, United States Code (section
 21 523 of the Bankruptcy Code of 1978), is amended by add-
 22 ing the following new subsection after subsection (e):

23 “(f) Obligations to comply with, and claims resulting
 24 from compliance with, Nuclear Regulatory Commission
 25 regulations or orders governing the decontamination and

1 decommissioning of nuclear power reactors licensed under
2 section 103 or 104b. of the Atomic Energy Act of 1954
3 (42 U.S.C. 2133 and 2134(b)) shall be given priority and
4 shall not be rejected, avoided, or discharged under title
5 11 of the United States Code or in any liquidation, reorga-
6 nization, receivership, or other insolvency proceeding
7 under State or Federal law.”.

8 **SEC. 902. ENERGY INFORMATION ADMINISTRATION STUDY**
9 **OF IMPACTS OF COMPETITION IN ELEC-**
10 **TRICITY MARKETS.**

11 Section 205 of the Department of Energy Organiza-
12 tion Act (42 U.S.C. 7135) is amended by adding after sub-
13 section (l) the following new subsection:

14 “(m)(1) The Administrator shall collect and publish
15 information regarding the impact of wholesale and retail
16 competition on the electric power industry and consumers.
17 The Administrator shall prescribe forms for collecting this
18 information. Information to be collected may include, but
19 is not limited to—

20 “(A) the ownership and control of electric gen-
21 eration, transmission, distribution, and related facili-
22 ties;

23 “(B) electricity consumption and demand;

24 “(C) the transmission, distribution, and delivery
25 of electric services;

1 “(D) the price of competitive electric services;

2 “(E) the costs, revenues, and rates of regulated
3 electric services;

4 “(F) the reliability of the electric generation
5 and transmission system, including the availability
6 of adequate generation and transmission capacity to
7 meet load requirements, generation and transmission
8 capacity additions and retirements, and fuel sup-
9 pliers and stocks for electric generation;

10 “(G) electric energy efficiency programs and
11 services and their impacts on energy consumption;

12 “(H) the development and use of renewable
13 electric energy resources; and

14 “(I) research, development and demonstration
15 activities to improve the nation’s electric system.

16 “(2) In carrying out the purposes of this subsection,
17 the Administrator shall take into account reporting bur-
18 dens and the protection of proprietary information as re-
19 quired by law.”.

20 **SEC. 903. ANTITRUST SAVINGS CLAUSE.**

21 This Act and the amendments made by this Act shall
22 not be construed to modify, impair, or supersede the oper-
23 ation of the antitrust laws. For purposes of this section,
24 “antitrust laws” has the meaning given it in subsection
25 (a) of the first section of the Clayton Act (15 U.S.C.

1 12(a)), except that it includes section 5 of the Federal
2 Trade Commission Act (15 U.S.C. 45), to the extent that
3 section 5 applies to unfair methods of competition.

4 **SEC. 904. ELIMINATION OF ANTITRUST REVIEW BY THE NU-**
5 **CLEAR REGULATORY COMMISSION.**

6 Section 105 of the Atomic Energy Act of 1954 (42
7 U.S.C. 2135) is amended by adding the following after
8 subsection c.:

9 “d. Following the effective date of this subsection,
10 subsection 105 c. shall not apply to any pending or future
11 application filed for a license to construct or operate a uti-
12 lization facility under sections 103 or 104b. This Act shall
13 not affect the Commission’s authority to enforce antitrust
14 conditions included in licenses issued under sections 103
15 or 104b. before the date of enactment of this subsection.”.

16 **SEC. 905. ENVIRONMENTAL LAWS SAVINGS CLAUSE.**

17 Nothing in this Act alters or affects environmental
18 requirements imposed by Federal or State law, including,
19 but not limited to, the Clean Air Act (42 U.S.C. 7401
20 et seq.); the Federal Water Pollution Control Act (33
21 U.S.C. 1251 et seq.); the Comprehensive Environmental
22 Response, Compensation, and Liability Act of 1980 (42
23 U.S.C. 9601 et seq.); the Federal Power Act (16 U.S.C.
24 791a et seq.); and the Endangered Species Act (16 U.S.C.
25 1531 et seq.).

1 **SEC. 906. GENERATING PLANT EFFICIENCY STUDY.**

2 Part C of title VI of the Department of Energy Orga-
 3 nization Act is amended by adding after section 662, the
 4 following new section:

5 “GENERATING PLANT EFFICIENCY STUDY

6 “SEC. 663. Within three years following the date of
 7 enactment of this section, the Secretary shall issue a re-
 8 port comparing the impact of wholesale and retail competi-
 9 tion on the efficiency of new and existing electric gener-
 10 ating facilities.”.

11 **SEC. 907. CONFORMING AMENDMENTS.**

12 (a) The Table of Contents of PURPA is amended
 13 by—

14 (1) inserting after the listing for section 117
 15 under subtitle B of title I:

“Sec. 118. Authority to impose reciprocity requirements.

“Sec. 119. Aggregation for purchase of retail electric energy.

“Sec. 119A. Consumer information disclosure.

“Sec. 119B. Access to electric service for low-income consumers.

“Sec. 119C. Residential electricity consumer database.

“Sec. 119D. Model code for retail suppliers.

“Sec. 119E. Model code for electric utility workers.”,

16 and

17 (2) inserting after the listing for section 608:

“Sec. 609. Retail competition.

“Sec. 610. Public Benefits Fund.

“Sec. 611. Federal renewable portfolio standard.

“Sec. 612. Net metering for renewable energy.

“Sec. 613. Interconnections for certain facilities.”.

1 (b) The table of contents of the Energy Policy Act
2 of 1992 is amended by inserting after the listing for sec-
3 tion 2606:

“Sec. 2607. Tribal electricity assistance.”.

4 (c) The table of contents of the Department of En-
5 ergy Organization Act is amended by—

6 (1) inserting after the listing for section 212:

“Sec. 213. Office of Indian Energy Policy and Programs.

“Sec. 214. Electricity Outage Investigation Board.”, and

7 (2) inserting after the listing for section 662:

“Sec. 663. Generating plant efficiency study.”.

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