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S. 1369

To enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 14, 1999

Mr. JEFFORDS (for himself, Mr. LIEBERMAN, Mr. MOYNIHAN, Mr. SCHUMER, Mr. KERRY, Mr. LAUTENBERG, Mr. DODD, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To enhance the benefits of the national electric system by encouraging and supporting State programs for renewable energy sources, universal electric service, affordable electric service, and energy conservation and efficiency, 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 “Clean Energy Act of
5 1999”.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the generation of electricity is unique in its
4 combined influence on the security, environmental
5 quality, and economic efficiency of the United
6 States;

7 (2) the generation and sale of electricity has a
8 direct and profound impact on interstate commerce;

9 (3) the Federal Government and the States
10 have a joint responsibility for the maintenance of
11 public purpose programs affected by the national
12 electric system;

13 (4) notwithstanding the public's interest in and
14 enthusiasm for programs that enhance the environ-
15 ment, encourage the efficient use of resources, and
16 provide for affordable and universal service, the in-
17 vestments in those public purposes by existing
18 means continues to decline;

19 (5) the dependence of the United States on for-
20 eign sources of fossil fuels is contrary to our na-
21 tional security; alternative, sustainable energy
22 sources must be pursued as the United States moves
23 into the 21st century;

24 (6) emissions from electric power generating fa-
25 cilities are today the largest industrial source re-

1 sponsible for persistent public health and environ-
2 mental problems;

3 (7) consumers have a right to certain informa-
4 tion in order to make objective choices on their elec-
5 tric service providers; and

6 (8) net metering of small systems for self-gen-
7 eration of electricity is in the public interest in order
8 to encourage private investment in renewable energy
9 resources, stimulate economic growth, and enhance
10 the continued diversification of the energy resources
11 used in the United States.

12 **SEC. 3. DEFINITIONS.**

13 In this Act:

14 (1) ADMINISTRATOR.—The term “Adminis-
15 trator” means the Administrator of the Environ-
16 mental Protection Agency.

17 (2) BOARD.—The term “Board” means the Na-
18 tional Electric System Public Benefits Board estab-
19 lished under section 5.

20 (3) COMMISSION.—The term “Commission”
21 means the Federal Energy Regulatory Commission.

22 (4) FUND.—The term “Fund” means the Na-
23 tional Electric System Public Benefits Fund estab-
24 lished by section 6.

1 (5) RENEWABLE ENERGY.—The term “renew-
2 able energy” means electricity generated from a re-
3 newable energy technology.

4 (6) RENEWABLE ENERGY TECHNOLOGY.—The
5 term “renewable energy technology” means wind,
6 biomass (including organic waste but excluding in-
7 cinerated municipal solid waste), or a geothermal,
8 solar thermal, or photovoltaic source.

9 (7) SECRETARY.—The term “Secretary” means
10 the Secretary of Energy.

11 **SEC. 4. EMISSIONS STANDARDS AND ALLOCATIONS.**

12 (a) DEFINITIONS.—In this section:

13 (1) COVERED GENERATION FACILITY.—The
14 term “covered generation facility” means an electric
15 generation facility (other than a nuclear facility)
16 with a nameplate capacity of 15 megawatts or great-
17 er that uses a combustion device to generate elec-
18 tricity for sale.

19 (2) GENERATING PLANT.—The term “gener-
20 ating plant” means 1 or more covered generation fa-
21 cilities located at a single site.

22 (3) COGENERATION.—The term “cogeneration”
23 means a process of simultaneously generating elec-
24 tricity and thermal energy in which a portion of the
25 energy value of fuel consumed is recovered as heat

that is used to meet heating or cooling loads outside
the generation facility.

(4) POLLUTANT.—The term “pollutant”
means—

(A) carbon dioxide;

(B) mercury;

(C) nitrogen oxide;

(D) sulfur dioxide; or

(E) any other substance that the Adminis-
trator may identify by regulation as a substance
the emission of which into the air from a com-
bustion device used in the generation of elec-
tricity endangers public health or welfare.

(b) NATIONWIDE EMISSIONS STANDARDS.—

(1) SCHEDULE.—Not later than July 1, 2001,
the Administrator shall promulgate a final regula-
tion that establishes a schedule of limits on the
quantity of each pollutant that all covered genera-
tion facilities in the aggregate nationwide shall be
permitted to emit in each calendar year beginning in
calendar year 2002.

(2) LIMIT.—The nationwide emissions standard
for calendar year 2005 and each year thereafter es-
tablished under paragraph (1) shall be not greater
than—

1 (A) for carbon dioxide, 1,914,000,000
2 tons;

3 (B) for mercury, 5 tons;

4 (C) for nitrogen oxide, 1,660,000 tons; and

5 (D) for sulfur dioxide, 3,580,000 tons.

6 (3) ADJUSTMENT.—The Administrator may ad-
7 just the schedule established under paragraph (1),
8 within the limits established by paragraph (2), if the
9 Administrator determines that an adjustment would
10 be in the best interests of the public health and wel-
11 fare.

12 (c) GENERATION PERFORMANCE STANDARD.—

13 (1) ANNUAL DETERMINATION.—

14 (A) IN GENERAL.—Not later than October
15 1 of each year, the Administrator, in consulta-
16 tion with the Commission, shall determine the
17 generation performance standard for carbon di-
18 oxide, mercury, nitrogen oxide, and sulfur diox-
19 ide emissions per megawatt-hour of electric pro-
20 duction by covered generation facilities for the
21 next calendar year.

22 (B) METHOD.—The Administrator shall
23 determine by regulation the method to be used
24 in determining an estimate under subparagraph
25 (A).

1 (2) FORMULA.—The generation performance
 2 standard shall be determined by dividing the annual
 3 nationwide emissions standard as established under
 4 subsection (b) by the Administrator's estimate of the
 5 nationwide megawatt-hour production for the next
 6 calendar year by all covered generation facilities.

7 (d) INDIVIDUAL EMISSIONS ALLOCATION.—The
 8 quantity of each pollutant that a covered generation facil-
 9 ity shall be permitted to emit during a calendar year shall
 10 be equal to—

11 (1) the facility's annual generation of mega-
 12 watt-hours of electricity multiplied by the generation
 13 performance standard as established in subsection
 14 (c); plus

15 (2) the facility's annual generation of thermal
 16 energy used to meet heating and cooling loads re-
 17 sulting from the cogeneration process, which shall be
 18 expressed by the Administrator in units of measure-
 19 ment that provide a reasonable comparison between
 20 energy generated in the form of electricity and en-
 21 ergy generated in the form of thermal energy and
 22 then multiplied by the generation performance
 23 standard as established under subsection (c).

24 (e) OZONE SEASON.—In determining the individual
 25 emissions allocation for a covered generation facility under

1 subsection (d), the quantity of nitrogen oxide emitted by
 2 covered generation facility and the number of megawatt-
 3 hours of electricity generated by the covered generation
 4 facility during the period May 1 through September 30
 5 of each year shall each be multiplied by 3.

6 (f) MONITORING.—

7 (1) ESTABLISHMENT OF SYSTEM.—The Admin-
 8 istrator shall establish a system for the accurate
 9 monitoring of the quantity of each pollutant that a
 10 covered generation facility emits during a year.

11 (2) REQUIREMENTS.—The monitoring system
 12 under paragraph (1) shall require—

13 (A) installation on each combustion device
 14 of a continuous monitoring system for each pol-
 15 lutant; or

16 (B) use of an alternative mechanism that
 17 the Administrator determines will provide data
 18 with precision, reliability, accessibility, and
 19 timeliness that are equal to or greater than
 20 those that would be achieved by a continuous
 21 emissions monitoring system.

22 (g) EMISSIONS CREDITS.—

23 (1) COMPARISON OF ACTUAL COMBUSTION DE-
 24 VICE OUTPUTS WITH INDIVIDUAL EMISSION ALLOCA-
 25 TIONS.—At the end of each year, the Administrator

1 shall compare the quantity of a pollutant emitted by
 2 a generation facility during the year with the indi-
 3 vidual emissions allocation as established under sub-
 4 section (d) applicable to the covered generation facil-
 5 ity for the year.

6 (2) ISSUANCE OF EMISSIONS CREDITS.—Not
 7 later than April 1 of each year, the Administrator
 8 shall issue to a covered generation facility 1 emis-
 9 sions credit for each ton by which the quantity of a
 10 pollutant emitted by the covered generation facility
 11 during the preceding year was less than the indi-
 12 vidual emissions allocation as established under sub-
 13 section (d) applicable to the covered generation facil-
 14 ity.

15 (3) SUBMISSION OF EMISSIONS CREDITS.—

16 (A) IN GENERAL.—Not later than July 1
 17 of each year, a covered generation facility that
 18 emitted a greater quantity of a pollutant than
 19 the individual emissions allocation applicable to
 20 the covered generation facility during the pre-
 21 ceding year shall submit to the Administrator 1
 22 emissions credit for each ton by which the
 23 quantity of the pollutant emitted was greater
 24 than the individual emissions allocation as es-
 25 tablished under subsection (d).

1 (B) PENALTY.—The owner or operator of
2 a covered generation facility that is required to
3 submit an emissions credit under subparagraph
4 (A) that fails to submit the emissions credit
5 shall pay to the Administrator a civil penalty
6 in an amount equal to—

7 (i) \$100 for each ton of carbon diox-
8 ide emissions in excess of the individual
9 emissions allocation applicable to the facil-
10 ity under subsection (d) for which a carbon
11 dioxide emissions credit has not been sub-
12 mitted under subparagraph (A);

13 (ii) \$2500 for each pound of mercury
14 emissions in excess of the individual emis-
15 sions allocation applicable to the facility
16 under subsection (D) for which a mercury
17 emissions credit has not been submitted
18 under subparagraph (A);

19 (iii) \$15,000 for each ton of nitrogen
20 oxide emissions in excess of the individual
21 emissions allocation applicable to the facil-
22 ity under subsection (d) for which a nitro-
23 gen oxide emissions credit has not been
24 submitted under subparagraph (A); and

1 (iv) \$2,500 for each ton of sulfur di-
2 oxide emissions in excess of the individual
3 emissions allocation applicable to the facil-
4 ity under subsection (d) for which a sulfur
5 dioxide emissions credit has not been sub-
6 mitted under subparagraph (A).

7 (C) PENALTY ADJUSTMENT.—The Admin-
8 istrator shall annually adjust the penalty speci-
9 fied in subparagraph (B) for inflation based on
10 the Consumer Price Index.

11 (4) USE OF EMISSIONS CREDITS.—A covered
12 generation facility may—

13 (A) retain an emissions credit from year to
14 year for future submission to the Administrator
15 under paragraph (3); or

16 (B) on notice to the Administrator, sell or
17 otherwise transfer an emissions credit to an-
18 other person.

19 (h) GENERATING PLANTS.—

20 (1) IN GENERAL.—The Administrator may per-
21 mit the average rate of emissions of nitrogen oxide
22 or sulfur dioxide at a generating plant over any 365-
23 day period to exceed the generation performance
24 standard established under subsection (c) if the gen-

erating plant has a sufficient quantity of emissions credits.

(2) SIGNIFICANT ADVERSE LOCAL IMPACTS.—

(A) STUDY.—

(i) IN GENERAL.—If the average rate of emissions of nitrogen oxide or sulfur dioxide at a generating plant exceeds 125 percent of the generation performance standard established under subsection (c) in any calendar year, the Administrator shall review the generating plant to determine whether emissions in excess of 125 percent of the generation performance standard may reasonably be anticipated to cause or contribute to any significant adverse local impacts, including degradation of the environment or public health, either independently of or in combination with other emissions.

(ii) PUBLIC COMMENT; TIMING.—A determination under clause (i)—

(I) shall be made after public notice and opportunity for public comment; and

1 (II) shall be published in final
2 form not later than 240 days after the
3 end of the calendar year in which the
4 average rate of emissions of nitrogen
5 oxide or sulfur dioxide at a generating
6 plant exceeds 125 percent of the
7 standard.

8 (B) ADDITIONAL REVIEW.—If the Admin-
9 istrator determines under subparagraph (A)
10 that excess emissions from a generating plant
11 cannot reasonably be anticipated to cause or
12 contribute to significant adverse local impacts,
13 and the average rate of emissions of nitrogen
14 oxide or sulfur dioxide from the generating
15 plant exceeds 125 percent of the generation
16 performance standard established under sub-
17 section (c) in any calendar year, any person
18 may petition the Administrator to conduct an
19 additional study under subparagraph (A).

20 (C) PROHIBITION.—

21 (i) IN GENERAL.—If the Adminis-
22 trator determines that nitrogen oxide or
23 sulfur dioxide emissions from a generating
24 plant in excess of 125 percent of the gen-
25 eration performance standard established

1 under subsection (c) may reasonably be an-
2 ticipated to cause or contribute to signifi-
3 cant adverse local impacts, it shall be un-
4 lawful for the generating plant to emit ni-
5 trogen oxide or sulfur dioxide in excess of
6 125 percent of the general performance
7 standard.

8 (ii) PENALTY.—The Administrator
9 shall assess the owner or operator of a
10 generating plant that violates clause (i) a
11 civil penalty of \$25,000 per day for each
12 day in which the average emission rate of
13 the generating plant over any 365-day pe-
14 riod exceeds the maximum emission rate
15 125 percent of the general performance
16 standard.

17 (i) POWERS.—The Administrator may promulgate
18 such regulations, conduct such investigations, and take
19 such other actions as are appropriate to implement this
20 section.

21 **SEC. 5. NATIONAL ELECTRIC SYSTEM PUBLIC BENEFITS**
22 **BOARD.**

23 (a) ESTABLISHMENT.—The Secretary shall establish
24 a National Electric System Public Benefits Board to carry

1 out the functions and responsibilities described in this sec-
2 tion.

3 (b) MEMBERSHIP.—The Board shall be composed
4 of—

5 (1) 1 representative of the Commission ap-
6 pointed by the Commission;

7 (2) 2 representatives of the Secretary appointed
8 by the Secretary;

9 (3) 2 persons nominated by the national organi-
10 zation representing State regulatory commissioners
11 and appointed by the Secretary;

12 (4) 1 person nominated by the national organi-
13 zation representing State utility consumer advocates
14 and appointed by the Secretary;

15 (5) 1 person nominated by the national organi-
16 zation representing State energy offices and ap-
17 pointed by the Secretary;

18 (6) 1 person nominated by the national organi-
19 zation representing energy assistance directors and
20 appointed by the Secretary; and

21 (7) 1 representative of the Environmental Pro-
22 tection Agency appointed by the Administrator.

23 (c) CHAIRPERSON.—The Secretary shall select a
24 member of the Board to serve as Chairperson of the
25 Board.

1 (d) MANAGER.—

2 (1) APPOINTMENT.—The Board shall by con-
3 tract appoint an electric systems public benefits
4 manager for a term of not more than 3 years, which
5 term may be renewed by the Board.

6 (2) COMPENSATION.—The compensation and
7 other terms and conditions of employment of the
8 manager shall be determined by a contract between
9 the Board and the individual or the other entity ap-
10 pointed as manager.

11 (3) FUNCTIONS.—The manager shall—

12 (A) monitor the amounts in the Fund;

13 (B) receive, review, and make rec-
14 ommendations to the Board regarding applica-
15 tions from States under section 6(b); and

16 (C) perform such other functions as the
17 Board may require to assist the Board in car-
18 rying out its duties under this Act.

19 **SEC. 6. NATIONAL ELECTRIC SYSTEM PUBLIC BENEFITS**
20 **FUND.**

21 (a) ESTABLISHMENT.—

22 (1) IN GENERAL.—The Board shall establish an
23 account or accounts at 1 or more financial institu-
24 tions, which account or accounts shall be known as
25 the “National Electric System Public Benefits

1 Fund”, consisting of amounts deposited in the fund
 2 under subsection (c).

3 (2) STATUS OF FUND.—The wires charges col-
 4 lected under subsection (c) and deposited in the
 5 Fund—

6 (A) shall constitute electric system reve-
 7 nues and shall not constitute funds of the
 8 United States;

9 (B) shall be held in trust by the manager
 10 of the Fund solely for the purposes stated in
 11 subsection (b); and

12 (C) shall not be available to meet any obli-
 13 gations of the United States.

14 (b) USE OF FUND.—

15 (1) FUNDING OF PUBLIC PURPOSE PRO-
 16 GRAMS.—Amounts in the Fund shall be used by the
 17 Board to provide matching funds to States for the
 18 support of State public purpose programs relating
 19 to—

20 (A) renewable energy sources;

21 (B) universal electric service;

22 (C) affordable electric service;

23 (D) energy conservation and efficiency; or

24 (E) research and development in areas de-
 25 scribed in subparagraphs (A) through (D).

1 (2) DISTRIBUTION.—

2 (A) IN GENERAL.—Except for amounts
3 needed to pay costs of the Board in carrying
4 out its duties under this section, the Board
5 shall instruct the manager of the Fund to dis-
6 tribute all amounts in the Fund to States to
7 fund public purpose programs under paragraph
8 (1).

9 (B) FUND SHARE.—

10 (i) IN GENERAL.—Subject to clause
11 (iii), the Fund share of a public purpose
12 program funded under paragraph (1) shall
13 be 50 percent.

14 (ii) PROPORTIONATE REDUCTION.—
15 To the extent that the amount of matching
16 funds requested by States exceeds the
17 maximum projected revenues of the Fund,
18 the matching funds distributed to the
19 States shall be reduced by an amount that
20 is proportionate to each State's annual
21 consumption of electricity compared to the
22 aggregate annual consumption of elec-
23 tricity in the United States.

24 (iii) ADDITIONAL STATE FUNDING.—

25 A State may apply funds to public purpose

1 programs in addition to the amount of
2 funds applied for the purpose of matching
3 the Fund share.

4 (3) PROGRAM CRITERIA.—The Board shall rec-
5 ommend eligibility criteria for public benefits pro-
6 grams funded under this section for approval by the
7 Secretary.

8 (4) APPLICATION.—Not later than August 1 of
9 each year beginning in 2000, a State seeking match-
10 ing funds for the following year shall file with the
11 Board, in such form as the Board may require, an
12 application—

13 (A) certifying that the funds will be used
14 for an eligible public purpose program; and

15 (B) stating the amount of State funds ear-
16 marked for the program.

17 (c) WIRES CHARGE.—

18 (1) DETERMINATION OF NEEDED FUNDING.—
19 Not later than August 1 of each year, the Board
20 shall determine and inform the Commission of the
21 aggregate amount of wires charges that it will be re-
22 quired to be paid into the Fund to pay matching
23 funds to States and the operating costs of the Board
24 in the following year.

25 (2) IMPOSITION OF WIRES CHARGE.—

1 (A) IN GENERAL.—Not later than Decem-
2 ber 15 of each year, the Commission shall im-
3 pose a nonbypassable, competitively neutral
4 wires charge to be paid directly into the Fund
5 by the operator of the wire on electricity carried
6 through the wire (measured as it exits the
7 busbar at a generation facility) that affects
8 interstate commerce.

9 (B) AMOUNT.—The wires charge shall be
10 set at a rate equal to the lesser of—

- 11 (i) 2 mills per kilowatt-hour; or
12 (ii) a rate that is estimated to result
13 in the collection of an amount of wires
14 charges that is as nearly as possible equal
15 to the amount of needed funding deter-
16 mined under paragraph (1).

17 (3) DEPOSIT IN THE FUND.—The wires charge
18 shall be paid by the operator of the wire directly into
19 the Fund at the end of each month during the cal-
20 endar year for distribution by the electric systems
21 public benefits manager under section 5.

22 (4) PENALTIES.—The Commission may assess
23 against a wire operator that fails to pay a wires
24 charge as required by this subsection a civil penalty

1 in an amount equal to not more than the amount of
2 the unpaid wires charge.

3 (d) AUDITING.—

4 (1) IN GENERAL.—The Fund shall be audited
5 annually by a firm of independent certified public
6 accountants in accordance with generally accepted
7 auditing standards.

8 (2) ACCESS TO RECORDS.—Representatives of
9 the Secretary and the Commission shall have access
10 to all books, accounts, reports, files, and other
11 records pertaining to the Fund as necessary to fa-
12 cilitate and verify the audit.

13 (3) REPORTS.—

14 (A) IN GENERAL.—A report on each audit
15 shall be submitted to the Secretary, the Com-
16 mission, and the Secretary of the Treasury, who
17 shall submit the report to the President and
18 Congress not later than 180 days after the
19 close of the fiscal year.

20 (B) REQUIREMENTS.—An audit report
21 shall—

22 (i) set forth the scope of the audit;

23 and

24 (ii) include—

1 (I) a statement of assets and li-
 2 abilities, capital; and surplus or def-
 3 icit;

4 (II) a statement of surplus or
 5 deficit analysis;

6 (III) a statement of income and
 7 expenses;

8 (IV) any other information that
 9 may be considered necessary to keep
 10 the President and Congress informed
 11 of the operations and financial condi-
 12 tion of the Fund; and

13 (V) any recommendations with
 14 respect to the Fund that the Sec-
 15 retary or the Commission may have.

16 **SEC. 7. RENEWABLE ENERGY PORTFOLIO STANDARDS.**

17 (a) DEFINITION OF COVERED GENERATION FACIL-
 18 ITY.—In this section, the term “covered generation facil-
 19 ity” means a nonhydroelectric facility that generates elec-
 20 tric energy for sale.

21 (b) REQUIRED RENEWABLE ENERGY.—Of the total
 22 amount of electricity sold by covered generation facilities
 23 during a calendar year, the amount generated by renew-
 24 able energy sources shall be not less than—

25 (1) 2.5 percent in 2000;

- 1 (2) 3.0 percent in 2001;
- 2 (3) 3.5 percent in 2002;
- 3 (4) 4.0 percent in 2003;
- 4 (5) 4.5 percent in 2004;
- 5 (6) 5.0 percent in 2005;
- 6 (7) 6.0 percent in 2006;
- 7 (8) 7.0 percent in 2007;
- 8 (9) 8.0 percent in 2008;
- 9 (10) 9.0 percent in 2009;
- 10 (11) 10.0 percent in 2010;
- 11 (12) 11.0 percent in 2011;
- 12 (13) 12.0 percent in 2012;
- 13 (14) 13.0 percent in 2013;
- 14 (15) 14.0 percent in 2014;
- 15 (16) 15.0 percent in 2015;
- 16 (17) 16.0 percent in 2016;
- 17 (18) 17.0 percent in 2017;
- 18 (19) 18.0 percent in 2018;
- 19 (20) 19.0 percent in 2019; and
- 20 (21) 20.0 percent in 2020 and each year there-
- 21 after.

22 (c) RENEWABLE ENERGY CREDITS.—

23 (1) IDENTIFICATION OF ENERGY SOURCES.—

24 The Commission shall establish standards and pro-

cedures under which a covered generation facility shall certify to a purchaser of electricity—

(A) the amount of the electricity that is generated by a renewable energy source; and

(B) the amount of the electricity that is generated by a source other than a renewable energy source.

(2) ISSUANCE OF RENEWABLE ENERGY CREDITS.—Not later than April 1 of each year beginning in 2001, the Commission shall issue to a covered generation facility 1 renewable energy credit for each megawatt-hour of electricity sold by the covered generation facility in the preceding calendar year that was generated by a renewable source.

(3) SUBMISSION OF RENEWABLE ENERGY CREDITS.—Not later than July 1 of each year, a covered generation facility shall submit credits to the Commission in an amount equal to the total number of megawatt-hours of electricity sold by the covered generation facility in the preceding year multiplied by the applicable renewable energy source requirement under subsection (a).

(4) USE OF RENEWABLE ENERGY CREDITS.—

1 (A) TIME FOR USE.—A renewable energy
2 credit shall be used for the calendar year for
3 the renewable energy credit is issued.

4 (B) PERMITTED USES.—Until July 1 of
5 the year in which a renewable energy credit was
6 issued, a covered generation facility may—

7 (i) use the renewable energy credit to
8 make a submission to the Commission
9 under paragraph (3); or

10 (ii) on notice to the Commission, sell
11 or otherwise transfer a renewable energy
12 credit to another covered generation facil-
13 ity.

14 (d) RECORDKEEPING.—The Commission shall main-
15 tain records of all renewable energy credits issued and all
16 credits sold or exchanged.

17 (e) PENALTIES.—

18 (1) IN GENERAL.—The Commission may bring
19 an action in United States district court to impose
20 a civil penalty on any person that fails to comply
21 with subsection (a).

22 (2) AMOUNT OF PENALTY.—A person that fails
23 to comply with a requirement to submit renewable
24 energy credits under subsection (b)(3) shall be sub-
25 ject to a civil penalty of not more than 3 times the

1 estimated national average market value (as deter-
 2 mined by the Commission) for the calendar year
 3 concerned of that quantity of renewable energy cred-
 4 its.

5 (f) PUBLIC UTILITY REGULATORY POLICIES ACT OF
 6 1978.—

7 (1) REPEAL OF COGENERATION AND SMALL
 8 POWER PRODUCTION PROVISION.—Effective January
 9 1, 2000, the Public Utility Regulatory Policies Act
 10 of 1978 is amended by striking section 210 (16
 11 U.S.C. 824a–3).

12 (2) EXISTING CONTRACTS.—The amendment
 13 made by paragraph (1) shall not affect the contin-
 14 ued validity and enforceability of contracts entered
 15 into under section 210 of the Public Utility Regu-
 16 latory Policies Act of 1978 before the date of enact-
 17 ment of this Act.

18 (3) CONTINUED JURISDICTION.—Notwith-
 19 standing the amendment made by paragraph (1),
 20 the Commission shall retain jurisdiction to—

21 (A) ensure the continued status of quali-
 22 fying small power production facilities under
 23 section 210 of the Public Utility Regulatory
 24 Policies Act of 1978 (16 U.S.C. 824a–3); and

1 (B) continue exemptions granted under
 2 subsection (e) of that section before the date of
 3 enactment of this Act.

4 (g) POWERS.—The Commission may promulgate
 5 such regulations, conduct such investigations, and take
 6 such other actions as are necessary or appropriate to im-
 7 plement and obtain compliance with this section and regu-
 8 lations promulgated under this section.

9 **SEC. 8. SELF-GENERATION AND NET METERING.**

10 (a) DEFINITIONS.—In this section:

11 (1) CUSTOMER-GENERATOR.—The term “cus-
 12 tomer-generator” means a retail electric customer
 13 that generates electricity measured by a net meter-
 14 ing system.

15 (2) ELECTRIC COMPANY.—

16 (A) IN GENERAL.—The term “electric
 17 company” means a company that is engaged in
 18 the business of distributing electricity to retail
 19 electric customers.

20 (B) INCLUSIONS.—The term “electric com-
 21 pany” includes an investor-owned utility, public
 22 utility district, irrigation district, port district,
 23 electric cooperative, or municipal electric utility.

24 (3) NET METERING.—The term “net metering”
 25 means the measuring of the difference between—

1 (A) the quantity of electricity supplied by
 2 an electric company to a customer-generator
 3 during a billing period; and

4 (B) the quantity of electricity generated by
 5 a customer-generator and fed back to the elec-
 6 tric company by a net metering system during
 7 the billing period.

8 (4) NET METERING SYSTEM.—The term “net
 9 metering system” means a facility for generation of
 10 electricity that—

11 (A) is of not more than 100 kilowatts ca-
 12 pacity;

13 (B) is interconnected and operates in par-
 14 allel with the transmission and distribution sys-
 15 tem of an electric company;

16 (C) is intended primarily to offset some or
 17 all of the electricity requirements of a customer-
 18 generator;

19 (D) is located on the premises of a cus-
 20 tomer-generator; and

21 (E) employs a renewable energy source.

22 (b) REQUIREMENT TO ALLOW NET METERING.—An
 23 electric company shall allow a retail electric customer to
 24 interconnect and employ a net metering system using—

1 (1) a kilowatt-hour meter capable of registering
2 the flow of electricity in 2 directions; or

3 (2) another type of comparably equipped meter
4 that would otherwise be applicable to the customer's
5 usage but for the use of net metering.

6 (c) NET METERING ACCOUNTING.—

7 (1) IN GENERAL.—Electric energy measure-
8 ments for a net metering system shall be calculated
9 in accordance with this subsection.

10 (2) RATES AND CHARGES.—An electric
11 company—

12 (A) shall charge a customer-generator
13 rates and charges that are identical to those
14 that would be charged other retail electric cus-
15 tomers of the electric company in the same rate
16 class; and

17 (B) shall not charge a customer-generator
18 any additional standby, capacity, interconnec-
19 tion, or other rate or charge.

20 (3) MEASUREMENT.—An electric company that
21 supplies electricity to a customer-generator shall
22 measure the quantity of electricity produced by the
23 customer-generator and the quantity of electricity
24 consumed by the customer-generator during a billing
25 period in accordance with normal metering practices.

1 (4) ELECTRICITY SUPPLIED EXCEEDING ELEC-
2 TRICITY GENERATED.—If the quantity of electricity
3 supplied by an electric company during a billing pe-
4 riod exceeds the quantity of electricity generated by
5 the customer-generator and fed back to the electric
6 distribution system during the billing period, the
7 electric company may bill the customer-generator for
8 the net quantity of electricity supplied by the electric
9 company, in accordance with normal metering prac-
10 tices.

11 (5) ELECTRICITY GENERATED EXCEEDING
12 ELECTRICITY SUPPLIED.—If the quantity of elec-
13 tricity generated by a customer-generator during a
14 billing period exceeds the quantity of electricity sup-
15 plied by the electric company during the billing
16 period—

17 (A) the electric company may bill the cus-
18 tomer-generator for the appropriate charges for
19 the billing period in accordance with paragraph
20 (1); and

21 (B) the customer-generator shall be cred-
22 ited for the excess kilowatt-hours generated
23 during the billing period, with the kilowatt-hour
24 credit appearing on the bill for the following
25 billing period.

1 (6) UNUSED CREDITS.—At the beginning of
2 each calendar year, any unused kilowatt-hour credits
3 accumulated by a customer-generator during the
4 previous calendar year shall expire without com-
5 pensation to the customer-generator.

6 (d) SAFETY.—

7 (1) REQUIREMENTS.—

8 (A) INTERIM PROVISION.—A net metering
9 system using photovoltaic generation shall con-
10 form to applicable electrical safety, power qual-
11 ity, and interconnection requirements estab-
12 lished by the National Electrical Code, the In-
13 stitute of Electrical and Electronic Engineers,
14 and Underwriters Laboratories.

15 (B) REGULATION.—Not later than March
16 1, 2001, the Commission shall adopt electrical
17 safety, power quality, and interconnection re-
18 quirements for net metering systems that use
19 generation technology other than photovoltaic
20 technology.

21 (2) TESTING AND INSPECTION.—An electric
22 company may, at its own expense, and upon reason-
23 able written notice to a customer-generator, perform
24 such testing and inspection of a net metering system
25 as is necessary to demonstrate to the satisfaction of

1 the electric company that the system conforms to
 2 applicable electric safety, power quality, and inter-
 3 connection requirements.

4 (3) ADDITIONAL METERS.—An electric com-
 5 pany may, at its own expense and with the written
 6 consent of a customer-generator, install 1 or more
 7 additional meters to monitor the flow of electricity in
 8 each direction.

9 **SEC. 9. DISCLOSURE REQUIREMENTS.**

10 (a) DEFINITIONS.—In this section:

11 (1) EMISSIONS DATA.—The term “emissions
 12 data” means the type and amount of each pollutant
 13 emitted or released by a generation facility in gener-
 14 ating electricity.

15 (2) GENERATION DATA.—The term “generation
 16 data” means the type of fuel (such as coal, oil, nu-
 17 clear energy, or solar power) used by a generation
 18 facility to generate electricity.

19 (b) DISCLOSURE SYSTEM.—The Secretary shall es-
 20 tablish a system of disclosure that—

21 (1) enables retail consumers to knowledgeably
 22 compare retail electric service offerings, including
 23 comparisons based on generation source portfolios,
 24 emissions data, and price terms; and

25 (2) considers such factors as—

- 1 (A) cost of implementation;
- 2 (B) confidentiality of information; and
- 3 (C) flexibility.

4 (c) REGULATION.—Not later than March 1, 2001,
5 the Secretary, in consultation with the Board, and with
6 the assistance of a Federal interagency task force that in-
7 cludes representatives of the Commission, the Federal
8 Trade Commission, the Food and Drug Administration,
9 and the Environmental Protection Agency, shall promul-
10 gate a regulation prescribing—

11 (1) the form, content, and frequency of disclo-
12 sure of emissions data and generation data of elec-
13 tricity by generation facilities to electricity whole-
14 salers or retail companies and by wholesalers to re-
15 tail companies;

16 (2) the form, content, and frequency of disclo-
17 sure of emissions data, generation data, and the
18 price of electricity by retail companies to ultimate
19 consumers; and

20 (3) the form, content, and frequency of disclo-
21 sure of emissions data, generation data, and the
22 price of electricity by generation facilities selling di-
23 rectly to ultimate consumers.

24 (d) ACCESS TO RECORDS.—The Secretary shall have
25 full access to the records of all generation facilities, elec-

1 tricity wholesalers, and retail companies to obtain any in-
 2 formation necessary to administer and enforce this sec-
 3 tion.

4 (e) FAILURE TO DISCLOSE.—The failure of a retail
 5 company to accurately disclose information as required by
 6 this section shall be treated as a deceptive act in commerce
 7 under section 5 of the Federal Trade Commission Act (15
 8 U.S.C. 45).

9 (f) REGULATIONS.—The Secretary may promulgate
 10 such regulations, conduct such investigations, and take
 11 such other actions as are necessary or appropriate to im-
 12 plement and obtain compliance with this section and regu-
 13 lations promulgated under this section.

14 **SEC. 10. STATE AND LOCAL LAW.**

15 Nothing in this Act precludes a State or political sub-
 16 division of a State from adopting and enforcing—

17 (1) any standard or limitation respecting emis-
 18 sions of air pollutants; or

19 (2) any requirement respecting control or
 20 abatement of air pollution;

21 except that a State or political subdivision may not adopt
 22 or enforce any emission standard or limitation that is less
 23 stringent than the requirements imposed under this Act.

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