

108TH CONGRESS  
1ST SESSION

# S. 681

To provide for the enhanced protection of electricity consumers under the  
Federal Power Act.

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IN THE SENATE OF THE UNITED STATES

MARCH 21, 2003

Ms. CANTWELL (for herself and Mrs. MURRAY) introduced the following bill;  
which was read twice and referred to the Committee on Energy and Nat-  
ural Resources

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## A BILL

To provide for the enhanced protection of electricity  
consumers under the Federal Power Act.

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 Electricity Market  
5 Manipulation Prevention Act”.

6 **SEC. 2. MARKET-BASED RATES.**

7 Section 205 of the Federal Power Act (16 U.S.C.  
8 824d) is amended by adding at the end the following:

9 “(g) MARKET-BASED RATES.—

1           “(1) IN GENERAL.—For each public utility  
 2           granted the authority by the Commission to sell  
 3           wholesale electric energy at market-based rates, the  
 4           Commission shall review, at least annually, the char-  
 5           acteristics of each market in which the public utility  
 6           is authorized to sell wholesale electric energy at mar-  
 7           ket-based rates to determine whether sales by the  
 8           public utility in that market are subject to effective  
 9           competition.

10           “(2) NO EFFECTIVE COMPETITION.—On deter-  
 11           mining that sales in a market by a public utility are  
 12           not subject to effective competition, the Commission  
 13           shall issue an order immediately revoking the au-  
 14           thority of the public utility to sell wholesale electric  
 15           energy at market-based rates in that market.

16           “(3) CONDITION.—In each authorization to a  
 17           public utility to sell wholesale electric energy at mar-  
 18           ket-based rates, the Commission shall include a con-  
 19           dition requiring the public utility to notify the Com-  
 20           mission promptly of any change in any characteristic  
 21           of the market that the Commission relied on in  
 22           granting the authority.”.

23 **SEC. 3. REMEDIES.**

24           Section 206 of the Federal Power Act (16 U.S.C.  
 25           824e) is amended by adding at the end the following:

1       “(d) MARKET-BASED RATES.—The Commission  
2 shall issue an order immediately revoking or modifying the  
3 authority of a public utility to sell electric energy at mar-  
4 ket-based rates if, after a hearing had upon its own motion  
5 or upon complaint, the Commission finds that—

6               “(1) a rate charged by the public utility author-  
7 ized to sell electric energy at market-based rates in  
8 a wholesale electric energy market is unjust, unrea-  
9 sonable, unduly discriminatory or preferential;

10              “(2) the public utility has intentionally engaged  
11 in an activity in a wholesale electric energy market  
12 that violates any rule, tariff, or order of the Com-  
13 mission; or

14              “(3) the public utility has engaged in or at-  
15 tempted to engage in fraudulent, manipulative, or  
16 deceptive activity in a wholesale electric energy mar-  
17 ket.

18       “(e) FRAUDULENT, MANIPULATIVE, OR DECEPTIVE  
19 ACTIVITIES.—Notwithstanding subsection (a), if the Com-  
20 mission finds that a public utility has engaged in or at-  
21 tempted to engage in a fraudulent, manipulative, or decep-  
22 tive activity in a wholesale electric energy market, the  
23 Commission shall—

1           “(1) establish the just and reasonable rate for  
2           all prospective sales subject to the jurisdiction of the  
3           Commission made by the public utility; and

4           “(2) require the public utility to refund any rev-  
5           enues collected in excess of the average wholesale  
6           power cost of service within the regional power mar-  
7           ket for the period in which the public utility engaged  
8           in the activity.

9           “(f) PUBLIC INTEREST STANDARD.—

10           “(1) IN GENERAL.—Except as provided in para-  
11           graph (2), the Commission shall not apply the public  
12           interest standard in a proceeding under this section  
13           for review of a transaction executed at market-based  
14           rates.

15           “(2) NO EFFECTIVE COMPETITION.—If the  
16           public interest standard is explicitly contained in the  
17           contract at issue in a proceeding described in para-  
18           graph (1), the Commission shall apply the public in-  
19           terest standard in the proceeding unless the Com-  
20           mission finds that the contract was not subject to ef-  
21           fective competition.”.

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