

106TH CONGRESS
1ST SESSION

H. R. 2569

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 HOUSE OF REPRESENTATIVES

JULY 20, 1999

Mr. PALLONE introduced the following bill; which was referred to the
Committee on Commerce

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fair Energy Competition Act of 1999”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.

- Sec. 3. Definitions.
- Sec. 4. Allowance program for certain air pollutants.
- Sec. 5. National Electric System Public Benefits Board.
- Sec. 6. National Electric System Public Benefits Fund.
- Sec. 7. Renewable energy portfolio standards.
- Sec. 8. Net metering.
- Sec. 9. Disclosure requirements.
- Sec. 10. State and local law.
- Sec. 11. PURPA repeal.
- Sec. 12. Illegal changes in retail customer selections.
- Sec. 13. Privacy of consumer proprietary information.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds that—

3 (1) Restructuring the electricity industry is in-
4 tended to promote competition among electricity pro-
5 viders, resulting in lower electricity rates to con-
6 sumers, higher quality services, and a more robust
7 national economy.

8 (2) Emissions from electric power generating
9 facilities are today the largest industrial source re-
10 sponsible for persistent public health and environ-
11 mental problems.

12 (3) The generation of electricity is unique in its
13 combined influence on the Nation’s security, envi-
14 ronmental quality, and economic efficiency.

15 (4) The generation and sale of electricity has a
16 direct and profound impact on interstate commerce.

17 (5) The Federal Government and the States
18 have a joint responsibility for the maintenance of
19 public purpose programs affected by the national
20 electric system.

1 (6) Notwithstanding the public's interest in and
2 enthusiasm for programs that enhance the environ-
3 ment, encourage the efficient use of resources, and
4 provide for affordable and universal service, the in-
5 vestments in those public purposes by existing
6 means continues to decline.

7 (7) The full benefits of competition will not be
8 realized if some competitors enjoy an advantage re-
9 sulting from externalizing environmental and other
10 costs associated with air emissions produced by their
11 electric generating facilities, permitting them to
12 charge prices for electricity that do not reflect the
13 full economic and environmental costs of production.

14 (8) Emission control requirements on electric
15 generating units are substantially different depend-
16 ing on their age and location, allowing older gener-
17 ating units to emit pollutants at excessive rates.
18 Older generating units have been exempt from emis-
19 sions limitations applicable to new units based on
20 the expectation that, over time, these older units
21 would be retired. However, such units continue to
22 operate and emit at high rates.

23 (9) Consumers have a right to certain informa-
24 tion in order to make objective choices on their elec-
25 tric service providers.

1 (10) The availability in a competitive market of
2 products produced by renewable resources and
3 sources that minimize emissions of harmful air pol-
4 lutants could produce meaningful environmental, eco-
5 nomic and public health benefits.

6 (11) 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 (b) PURPOSES.—The purposes of this Act are to—

13 (1) ensure an economically efficient market in
14 electricity, in order to assure lower electricity rates
15 to consumers, higher quality services, and a more ro-
16 bust national economy;

17 (2) assure fair competition among participants
18 in the free market in electric power that will result
19 from restructuring the electric industry;

20 (3) internalize and protect the values of public
21 health, air, land, and water quality in the context of
22 a competitive market in electricity;

23 (4) encourage energy conservation and effi-
24 ciency and promote the use of renewable energy re-
25 sources.

1 (5) provide consumers with pertinent informa-
2 tion about the price, source, and air quality impact
3 of electric energy products;

4 (6) establish clear and uniform rules and proce-
5 dures for disclosing electric energy product informa-
6 tion to customers; and

7 (7) protect consumers against fair or fraudulent
8 business practices.

9 **SEC. 3. DEFINITIONS.**

10 In this Act:

11 (1) ADMINISTRATOR.—The term “Adminis-
12 trator” means the Administrator of the Environ-
13 mental Protection Agency.

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

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

19 (4) COGENERATION.—The term “cogeneration”
20 means a process of simultaneously generating elec-
21 tricity and thermal energy in which a portion of the
22 energy value of fuel consumed is recovered as heat
23 that is used to meet heating or cooling loads outside
24 the generation facility.

1 (5) COVERED ELECTRIC GENERATION FACIL-
2 ITY.—The term “covered electric generation facility”
3 means an electric generation facility (other than a
4 nuclear facility) with a nameplate capacity of 15
5 megawatts or greater that uses a combustion device
6 to generate electricity for sale.

7 (6) FUND.—The term “Fund” means the Na-
8 tional Electric System Public Benefits Fund estab-
9 lished by section 6.

10 (7) RENEWABLE ENERGY.—The term “renew-
11 able energy” means electricity generated from wind,
12 organic waste (excluding incinerated municipal solid
13 waste), or biomass (including anaerobic digestion
14 from farm systems and landfill gas recovery) or a
15 geothermal, solar thermal, or photovoltaic source.
16 For purposes of this paragraph, a farm system is an
17 electric generating facility that generates electric en-
18 ergy from the anaerobic digestion of agricultural
19 waste produced by farming that is located on the
20 farm where substantially all of the waste used is
21 produced.

22 (8) SECRETARY.—The term “Secretary” means
23 the Secretary of Energy.

1 **SEC. 4. ALLOWANCE PROGRAM FOR CERTAIN AIR POLLUT-**
2 **ANTS.**

3 (a) IN GENERAL.—Part III of the Federal Power Act
4 is amended by redesignating sections 320 and 321 as sec-
5 tions 323 and 324 respectively and by inserting the fol-
6 lowing new sections after section 319:

7 **“SEC. 320. GENERATION PERFORMANCE STANDARDS AND**
8 **TONNAGE CAPS.**

9 “(a) OXIDES OF NITROGEN.—

10 “(1) GENERATION PERFORMANCE STANDARD.—

11 For each covered period, the Commission shall cal-
12 culate a generation performance standard for oxides
13 of nitrogen from covered electric generating units in
14 the applicable region. The standard shall be equal to
15 the statutory tonnage cap for the covered period, as
16 set forth in paragraph (2), divided by the Commis-
17 sion’s estimate (under section 322(a)) of total elec-
18 tric generation from such units in the applicable re-
19 gion. The Commission shall publish such standard
20 (expressed in pounds per megawatt hour) at least 30
21 days prior to the beginning of the covered period
22 concerned.

23 “(2) STATUTORY TONNAGE CAP.—The statu-
24 tory tonnage cap (expressed in millions of tons) for
25 emissions of oxides of nitrogen from covered electric

1 generating units in the applicable region for each
 2 covered period shall be as follows:

Covered periods	Applicable region	Statutory tonnage cap (million tons)
May 1–September 30, 2003	22 Eastern States	0.54
May 1–September 30, 2004	22 Eastern States	0.54
Jan. 1–December 31, 2005 and each year thereafter	Continental US	1.66

3 “(3) OZONE EPISODES.—During each period
 4 coinciding with exceedances of the National Ambient
 5 Air Quality Standard for ozone, promulgated by the
 6 Administrator of the Environmental Protection
 7 Agency under the Clean Air Act (and during the 8
 8 hours preceding such exceedances), each covered
 9 unit with an actual emission rate greater than the
 10 generation performance standard shall be required
 11 to adjust its reported actual emissions under section
 12 321(b) by a factor of up to 3, depending on the
 13 unit’s distance from the exceedance. Units affected
 14 by this subsection may meet their obligations under
 15 section 321 either by emissions reductions at the af-
 16 fected unit, or by surrendering allowances equal to
 17 the difference between actual emissions and the
 18 emission limitation provided in this subsection.

19 “(b) FINE PARTICULATE MATTER.—

20 “(1) GENERATION PERFORMANCE STANDARD.—
 21 In order to reduce concentrations of sulfate fine par-
 22 ticulate matter, for each calendar year in a covered

1 period, the Commission shall calculate a generation
 2 performance standard for sulfur oxides from covered
 3 electric generating units. The standard shall be
 4 equal to the statutory tonnage cap for the covered
 5 calendar year, as set forth in paragraph (2), divided
 6 by the Commission’s estimate (under section 322(a))
 7 of total electric generation from such units in the
 8 applicable region. The Commission shall publish
 9 such standard (expressed in pounds per megawatt
 10 hour) at least 30 days prior to the beginning of the
 11 covered year concerned.

12 “(2) STATUTORY TONNAGE CAP.—The statu-
 13 tory tonnage cap (expressed in millions of tons) for
 14 fine particulate matter as measured by emissions of
 15 sulfur oxides from covered electric generating units
 16 in the continental United States for a covered period
 17 shall be as follows:

Covered period	Statutory tonnage cap (million tons)
2004 and thereafter	4.0

18 “(c) CARBON DIOXIDE.—

19 “(1) GENERATION PERFORMANCE STANDARD.—
 20 In order to reduce concentrations of carbon dioxide,
 21 for each covered calendar year, the Commission shall
 22 calculate a generation performance standard for car-
 23 bon dioxide from covered electric generating units.

1 The standard shall be equal to the statutory tonnage
2 cap for the covered period, as set forth in paragraph
3 (2) divided by the Commission’s estimate (under sec-
4 tion 322(a)) of total electric generation from such
5 units in the applicable region. The Commission shall
6 publish such standard (expressed in pounds per
7 megawatt hour) at least 30 days prior to the begin-
8 ning of the covered period concerned.

9 “(2) STATUTORY TONNAGE CAP.—The statu-
10 tory tonnage cap for carbon dioxide shall be 1.914
11 billion tons for the calendar year 2005 and each cal-
12 endar year thereafter.

13 “(d) MERCURY EMISSION REDUCTIONS.—In order to
14 reduce concentrations of mercury, for each covered cal-
15 endar year, the Commission shall determine the emission
16 levels for mercury from covered electric generating units
17 during calendar year 1990 and promulgate regulations re-
18 quiring phased reductions from such level during calendar
19 years 2000 through 2004 such that by calendar year 2005
20 (and thereafter) no such unit will emit more than 50 per-
21 cent of the amount of mercury emitted by that unit during
22 calendar year 1990, and by calendar year 2010 (and
23 thereafter) no such unit will emit more than 10 percent
24 of the amount of mercury emitted by that unit during cal-
25 endar year 1990, with periodic review and study of tech-

1 nical and cost feasibility, based on progress in improving
2 mercury control technology and the ability of energy effi-
3 ciency and alternative energy sources to assist in meeting
4 the 90 percent reduction target.

5 **“SEC. 321. ALLOCATION AND TRADING OF ALLOWANCES;**
6 **COMPLIANCE.**

7 “(a) ALLOCATION AND TRADING OF ALLOWANCES.—

8 “(1) IN GENERAL.—For each covered period,
9 the Commission shall allocate allowances for each
10 pollutant for which a tonnage cap has been estab-
11 lished pursuant to section 320, among covered units
12 in the applicable region by multiplying the genera-
13 tion performance standard for that covered period
14 for each such air pollutant by such unit’s electric
15 generation during the covered period.

16 “(2) ENERGY CONSERVATION.—The Commis-
17 sion shall also allocate allowances for such air pollut-
18 ants to each person in the applicable region who
19 demonstrates to the Commission (in accordance with
20 the measurement and verification protocol specified
21 in paragraph (4)) that such person has achieved a
22 reduction in gross electric energy demand during a
23 covered period, as certified by an independent body
24 approved by the Commission. The allowances allo-
25 cated to any such person shall be determined by

1 multiplying the generation performance standard for
2 the air pollutant concerned for the covered period by
3 such reduction in electric energy demand. Only one
4 person may apply for allowances for any particular
5 energy conservation action.

6 “(3) CARRYOVER AND TRADING OF ALLOW-
7 ANCES.—Allowances allocated to any person for any
8 air pollutant for any covered period that are not
9 used to demonstrate compliance with subsection (b)
10 for that pollutant during any covered period may be
11 retained and used to demonstrate compliance with
12 such requirements by any person in a subsequent
13 covered period. Such allowances may be transferred
14 by the person to whom allocated to any other per-
15 son. Any person to whom such allowances have been
16 transferred may use the allowances in the covered
17 period or in a subsequent covered period to dem-
18 onstrate compliance with subsection (b) or may
19 transfer such allowances to any other person for
20 such purposes.

21 “(4) MEASUREMENT AND VERIFICATION PRO-
22 TOCOL.—The Environmental Protection Agency, in
23 consultation with the Department of Energy, shall
24 develop a measurement and verification protocol that
25 provides for a reliable measure of energy savings

1 and that provides the necessary format for con-
2 verting measured and verified energy savings into a
3 reliable measure of reductions in power generation
4 related emissions of air pollutants as specified in
5 subsection (a)(1). Such measurement and
6 verification protocol may be derived from or based
7 on the International Measurement and Verification
8 Protocol or the New Jersey Measurement and
9 Verification Protocol, as appropriate.

10 “(b) COMPLIANCE WITH ALLOWANCE LIMITS.—For
11 each covered period, the owner or operator of each covered
12 unit in the applicable region shall surrender to the Com-
13 mission a number of allowances for oxides of nitrogen, sul-
14 fur oxides, and the pollutants for which a statutory ton-
15 nage cap has been established pursuant to section 320,
16 equal to the total tonnage of each such air pollutant emit-
17 ted during the covered period. Emissions shall be deter-
18 mined based on continuous monitoring approved by the
19 Administrator. The Administrator may permit the average
20 rate of emissions from a covered unit over any covered
21 period to exceed the generation performance standard if
22 the generating plant has a sufficient quantity of emissions
23 credits.

24 “(c) EXCESS EMISSIONS.—The owner or operator of
25 any covered unit that emits any pollutant for which a stat-

1 utory tonnage cap has been established pursuant to sec-
2 tion 320, for a covered period in any calendar year in ex-
3 cess of the allowances for such air pollutant that the owner
4 or operator holds for use for the unit for the covered pe-
5 riod shall be liable for the payment of an excess emissions
6 penalty, and shall be liable to offset the excess emissions
7 by an equal tonnage amount of such air pollutant in the
8 following covered period or such other period as the Com-
9 mission shall prescribe. The excess emissions penalty shall
10 be calculated on the basis of the number of tons emitted
11 in excess of the total number of allowances held, multiplied
12 by the applicable penalty baseline, indexed by inflation
13 under rules promulgated by the Commission. The penalty
14 baseline shall be \$5,000 per ton for oxides of nitrogen and
15 sulfur oxides, and \$100 per ton for carbon dioxide. The
16 Commission shall, by rule in consultation with the Admin-
17 istrator, establish penalties of equal effectiveness for other
18 pollutants for which a statutory tonnage cap has been es-
19 tablished pursuant to section 320. In the case of mercury,
20 the owner or operator of any covered unit that emits mer-
21 cury in excess of the emissions limit established for that
22 unit under section 320(d) shall be liable for an excess
23 emissions penalty in the amount of \$2,500 for each ton
24 emitted in excess of the limit established under section
25 320(d). Any such penalty shall be due and payable without

1 demand to the Commission. Excess emissions penalties
2 and offsets shall be determined and administered in ac-
3 cordance with regulations to be promulgated by the Com-
4 mission within 6 months after the enactment of this sec-
5 tion.

6 **“SEC. 322. GENERAL PROVISIONS RELATING TO SECTIONS**
7 **320 THROUGH 321.**

8 “(a) ESTIMATE OF ELECTRIC GENERATION.—For
9 each covered period, the Commission shall publish the
10 Commission’s estimate of the total electric generation by
11 covered electric generating units in the applicable region.
12 Such estimate shall be computed based on total electric
13 energy generation from all covered units during the cur-
14 rent year or covered period plus the projected growth (as
15 determined by the Secretary of Energy) in electric energy
16 generation and expected verifiable electric energy con-
17 servation for the covered period. The Commission shall
18 publish such estimate at least 30 days prior to the begin-
19 ning of the applicable period for which the estimate is
20 made.

21 “(b) TRANSFER.—If the President finds that any
22 functions and duties vested in the Commission under sec-
23 tions 320 or 321 or any combination thereof can be more
24 efficiently carried out by another department, agency, or
25 instrumentality of the United States, the President shall

1 transfer such functions and duties in accordance with such
2 finding. In any such case, such other department, agency,
3 or instrumentality shall be substituted for the Commission
4 for purposes of suits under subsection (c).

5 “(c) CITIZEN SUIT.—Except as provided in para-
6 graph (4) of this subsection, any person may commence
7 a civil action on his own behalf—

8 “(1) against any person (including (i) the
9 United States, and (ii) any other governmental in-
10 strumentality or agency to the extent permitted by
11 the Eleventh Amendment to the Constitution) who is
12 alleged to have violated (if there is evidence that the
13 alleged violation has been repeated) or to be in viola-
14 tion of (A) any requirement of section 320 or 321
15 or (B) an order issued by the Commission or a State
16 with respect to such requirements, and

17 “(2) against the Commission where there is al-
18 leged a failure of the Commission to perform any act
19 or duty under section 320, 321, or 322 which is not
20 discretionary with the Commission.

21 The district courts shall have jurisdiction, without regard
22 to the amount in controversy or the citizenship of the par-
23 ties, to enforce compliance with the requirements of sec-
24 tions 320 and 321 or to order the Commission to perform
25 such act or duty, as the case may be, and to apply any

1 appropriate civil penalties (except for actions under para-
2 graph (2)). The district courts of the United States shall
3 have jurisdiction to compel (consistent with paragraph (2)
4 of this subsection) agency action unreasonably delayed. In
5 any such action for unreasonable delay, notice to the Com-
6 mission shall be provided 180 days before commencing
7 such action.

8 “(3) No action may be commenced—

9 “(A) under paragraph (1)—

10 “(i) prior to 60 days after the plain-
11 tiff has given notice of the violation (I) to
12 the Commission, (II) to the State in which
13 the violation occurs, and (III) to any al-
14 leged violator of the standard, limitation,
15 or order, or

16 “(ii) if the Commission or State has
17 commenced and is diligently prosecuting a
18 civil action in a court of the United States
19 or a State to require compliance with the
20 standard, limitation, or order, but in any
21 such action in a court of the United States
22 any person may intervene as a matter of
23 right.

1 “(B) under paragraph (2) prior to 60 days
2 after the plaintiff has given notice of such ac-
3 tion to the Commission.

4 “(4) The court in issuing any final order in any
5 action brought pursuant to paragraph (1), may
6 award costs of litigation (including reasonable attor-
7 ney and expert witness fees) to any party, whenever
8 the court determines such award is appropriate.”.

9 (b) DEFINITIONS.—Section 3 of the Federal Power
10 Act is amended by adding the following after paragraph
11 (24):

12 “(25) For oxides of nitrogen, the terms ‘appli-
13 cable region’ and ‘covered period’ refer to the appli-
14 cable regions and each of the covered periods speci-
15 fied in the chart in section 320(a)(2). For fine par-
16 ticulate matter and any other pollutant for which a
17 tonnage cap has been established pursuant to section
18 320, the term ‘applicable region’ means the conti-
19 nental United States. For fine particulate matter,
20 the term ‘covered period’ means each of the periods
21 specified as covered periods in the chart in section
22 320(b)(2).

23 “(26) The term ‘covered electric generating
24 unit’ means an electric generating unit in the appli-

1 cable region with a nameplate capacity of 15 MWe
2 or greater.”.

3 **SEC. 5. NATIONAL ELECTRIC SYSTEM PUBLIC BENEFITS**
4 **BOARD.**

5 (a) ESTABLISHMENT.—The Secretary shall establish
6 a National Electric System Public Benefits Board to carry
7 out the functions and responsibilities described in this sec-
8 tion.

9 (b) MEMBERSHIP.—The Board shall be composed
10 of—

11 (1) 1 representative of the Commission ap-
12 pointed by the Commission;

13 (2) 2 representatives of the Secretary appointed
14 by the Secretary;

15 (3) 2 persons nominated by the national organi-
16 zation representing State regulatory commissioners
17 and appointed by the Secretary;

18 (4) 1 person nominated by the national organi-
19 zation representing State utility consumer advocates
20 and appointed by the Secretary;

21 (5) 1 person nominated by the national organi-
22 zation representing State energy offices and ap-
23 pointed by the Secretary;

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

4 (7) 1 representative of the Environmental Pro-
5 tection Agency appointed by the Administrator.

6 (c) CHAIRPERSON.—The Secretary shall select a
7 member of the Board to serve as Chairperson of the
8 Board.

9 (d) MANAGER.—

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

14 (2) COMPENSATION.—The compensation and
15 other terms and conditions of employment of the
16 manager shall be determined by a contract between
17 the Board and the individual or the other entity ap-
18 pointed as manager.

19 (3) FUNCTIONS.—The manager shall—

20 (A) monitor the amounts in the Fund;

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

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

4 **SEC. 6. NATIONAL ELECTRIC SYSTEM PUBLIC BENEFITS**
5 **FUND.**

6 (a) ESTABLISHMENT.—

7 (1) IN GENERAL.—The Board shall establish an
8 account or accounts at one or more financial institu-
9 tions, which account or accounts shall be known as
10 the “National Electric System Public Benefits
11 Fund”, consisting of amounts deposited in the fund
12 under subsection (c).

13 (2) STATUS OF FUND.—The wires charges col-
14 lected under subsection (c) and deposited in the
15 Fund—

16 (A) shall constitute electric system reve-
17 nues and shall not constitute funds of the
18 United States;

19 (B) shall be held in trust by the manager
20 of the Fund solely for the purposes stated in
21 subsection (b); and

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

24 (b) USE OF FUND.—

1 (1) FUNDING OF PUBLIC PURPOSE PRO-
2 GRAMS.—Amounts in the Fund shall be used by the
3 Board to provide matching funds to States for the
4 support of State public purpose programs relating
5 to—

6 (A) renewable energy sources;

7 (B) universal electric service;

8 (C) affordable electric service;

9 (D) energy conservation and efficiency;

10 (E) research and development in areas de-
11 scribed in subparagraphs (A) through (D), or

12 (F) disconnections during periods of ex-
13 treme cold or heat.

14 (2) DISTRIBUTION.—

15 (A) IN GENERAL.—Except for amounts
16 needed to pay costs of the Board in carrying
17 out its duties under this section, the Board
18 shall instruct the manager of the Fund to dis-
19 tribute all amounts in the Fund to States to
20 fund public purpose programs under paragraph
21 (1).

22 (B) FUND SHARE.—

23 (i) IN GENERAL.—Subject to clause
24 (iii), the Fund share of a public purpose

1 program funded under paragraph (1) shall
2 be 50 percent.

3 (ii) PROPORTIONATE REDUCTION.—

4 To the extent that the amount of matching
5 funds requested by States exceeds the
6 maximum projected revenues of the Fund,
7 the matching funds distributed to the
8 States shall be reduced by an amount that
9 is proportionate to each State's annual
10 consumption of electricity compared to the
11 Nation's aggregate annual consumption of
12 electricity.

13 (iii) ADDITIONAL STATE FUNDING.—

14 A State may apply funds to public purpose
15 programs in addition to the amount of
16 funds applied for the purpose of matching
17 the Fund share.

18 (3) PROGRAM CRITERIA.—The Board shall rec-
19 ommend eligibility criteria for public benefits pro-
20 grams funded under this section for approval by the
21 Secretary.

22 (4) APPLICATION.—Not later than August 1 of
23 each year beginning in 2000, a State seeking match-
24 ing funds for the following year shall file with the

1 Board, in such form as the Board may require, an
2 application—

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

5 (B) stating the amount of State funds ear-
6 marked for the program.

7 (c) WIRES CHARGE.—

8 (1) DETERMINATION OF NEEDED FUNDING.—

9 Not later than August 1 of each year, the Board
10 shall determine and inform the Commission of the
11 aggregate amount of wires charges that will be nec-
12 essary to be paid into the Fund to pay matching
13 funds to States and pay the operating costs of the
14 Board in the following year.

15 (2) IMPOSITION OF WIRES CHARGE.—

16 (A) IN GENERAL.—Not later than Decem-
17 ber 15 of each year, the Commission shall im-
18 pose a nonbypassable, competitively neutral
19 wires charge to be paid directly into the Fund
20 by the operator of the wire on electricity carried
21 through the wire (measured as it exits the
22 busbar at a generation facility) that affects
23 interstate commerce.

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

1 (i) 2.0 mills per kilowatt-hour; or

2 (ii) a rate that is estimated to result
3 in the collection of an amount of wires
4 charges that is as nearly as possible equal
5 to the amount of needed funding deter-
6 mined under paragraph (1),

7 reduced by 50 percent of the amount of any wire
8 charge imposed on such electricity under State law
9 that is used by a State for State public purpose pro-
10 gram described in subsection (b)(1).

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

16 (4) PENALTIES.—The Commission may assess
17 against a wire operator that fails to pay a wires
18 charge as required by this subsection a civil penalty
19 in an amount equal to not more than the amount of
20 the unpaid wires charge.

21 (d) AUDITING.—

22 (1) IN GENERAL.—The Fund shall be audited
23 annually by a firm of independent certified public
24 accountants in accordance with generally accepted
25 auditing standards.

1 (2) ACCESS TO RECORDS.—Representatives of
2 the Secretary and the Commission shall have access
3 to all books, accounts, reports, files, and other
4 records pertaining to the Fund as necessary to fa-
5 cilitate and verify the audit.

6 (3) REPORTS.—

7 (A) IN GENERAL.—A report on each audit
8 shall be submitted to the Secretary, the Com-
9 mission, and the Secretary of the Treasury, who
10 shall submit the report to the President and
11 Congress not later than 180 days after the
12 close of the fiscal year.

13 (B) REQUIREMENTS.—An audit report
14 shall—

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

16 and

17 (ii) include—

18 (I) a statement of assets and li-
19 abilities, capital; and surplus or def-
20 icit;

21 (II) a statement of surplus or
22 deficit analysis;

23 (III) a statement of income and
24 expenses;

1 (IV) any other information that
2 may be considered necessary to keep
3 the President and Congress informed
4 of the operations and financial condi-
5 tion of the Fund; and

6 (V) any recommendations with
7 respect to the Fund that the Sec-
8 retary or the Commission may have.

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

10 (a) DEFINITION OF GENERATION FACILITY.—In this
11 section, the term “covered electric generation facility”
12 means a nonhydroelectric facility that generates electric
13 energy for sale.

14 (b) REQUIRED RENEWABLE ENERGY.—Of the total
15 amount of electricity sold by covered electric generation
16 facilities during a calendar year, the amount generated by
17 emerging renewable energy sources shall be not less
18 than—

- 19 (1) 2.5 percent in 2000;
20 (2) 2.75 percent in 2001;
21 (3) 3 percent in 2002;
22 (4) 3.25 percent in 2003;
23 (5) 3.5 percent in 2004;
24 (6) 4.0 percent in 2005;
25 (7) 4.5 percent in 2006;

- 1 (8) 5 percent in 2007;
2 (9) 5.5 percent in 2008;
3 (10) 6.5 percent in 2009; and
4 (11) 7.5 percent in 2010 and each year there-
5 after.

6 (c) RENEWABLE ENERGY CREDITS.—

7 (1) IDENTIFICATION OF ENERGY SOURCES.—

8 The Commission shall establish standards and pro-
9 cedures under which a covered electric generation fa-
10 cility shall certify to a purchaser of electricity—

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

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

16 (2) ISSUANCE OF RENEWABLE ENERGY CRED-
17 ITS.—Not later than April 1 of each year, beginning
18 in the year 2001, the Commission shall issue to a
19 covered electric generation facility 1 renewable en-
20 ergy credit for each megawatt-hour of electricity sold
21 by the covered electric generation facility in the pre-
22 ceding calendar year that was generated by a renew-
23 able source.

24 (3) SUBMISSION OF RENEWABLE ENERGY
25 CREDITS.—Not later than July 1 of each year, a

1 covered electric generation facility shall submit cred-
2 its to the Commission in an amount equal to the
3 total number of megawatt-hours of electricity sold by
4 the covered electric generation facility in the pre-
5 ceding year multiplied by the applicable renewable
6 energy source requirement under subsection (a).

7 (4) USE OF RENEWABLE ENERGY CREDITS.—

8 (A) TIME FOR USE.—A renewable energy
9 credit shall be used for the calendar year for
10 the renewable energy credit is issued.

11 (B) PERMITTED USES.—Until July 1 of
12 the year in which a renewable energy credit was
13 issued, a covered electric generation facility
14 may—

15 (i) use the renewable energy credit to
16 make a submission to the Commission
17 under paragraph (3); or

18 (ii) on notice to the Commission, sell
19 or otherwise transfer a renewable energy
20 credit to another covered electric genera-
21 tion facility.

22 (d) RECORDKEEPING.—The Commission shall main-
23 tain records of all renewable energy credits issued and all
24 credits sold or exchanged.

1 (e) RENEWABLE ENERGY CREDIT COST CAP.—Be-
2 ginning with the year 2000, the Commission shall offer
3 renewable energy credits for sale. The Commission shall
4 charge 2.5 cents for each Renewable Energy Credit sold
5 during calendar year 2000. On January 1 of each fol-
6 lowing year, the Commission shall adjust for inflation,
7 based on the Consumer Price Index, the price charged per
8 credit for that calendar year. The Commission shall de-
9 posit in a separate account the amount received from a
10 sale under this subsection. Amounts in the separate ac-
11 count shall be available, without further appropriation, to
12 the Secretary of Energy to be used for purposes of pro-
13 viding assistance for research and development of cleaner
14 burning fuels and renewable energy.

15 (f) PENALTIES.—The Commission may bring an ac-
16 tion in United States district court to impose a civil pen-
17 alty on any person that fails to comply with subsection
18 (a). A person that fails to comply with a requirement to
19 submit renewable energy credits under subsection (b)(3)
20 shall be subject to a civil penalty of not more than 3 times
21 the estimated national average market value (as deter-
22 mined by the Commission) for the calendar year concerned
23 of that quantity of renewable energy credits.

24 (g) POWERS.—The Commission may promulgate
25 such regulations, conduct such investigations, and take

1 such other actions as are necessary or appropriate to im-
2 plement and obtain compliance with this section and regu-
3 lations promulgated under this section.

4 **SEC. 8. NET METERING.**

5 (a) AMENDMENT OF PURPA.—The Public Utility
6 Regulatory Polices Act of 1978 is amended by adding the
7 following new section after section 214:

8 **“SEC. 215. NET METERING.**

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

10 “(1) The term ‘eligible on-site generating facil-
11 ity’ means a facility on the site of a residential elec-
12 tric consumer with a maximum generating capacity
13 of 100 kilowatts or less that is fueled by solar or
14 wind energy or a facility on the site of a commercial
15 electric consumer with a maximum generating ca-
16 pacity of 250 kilowatts or less that is fueled solely
17 by a renewable energy resource.

18 “(2) The term ‘renewable energy resource’
19 means solar energy, wind energy, biomass, and fuel
20 cells.

21 “(3) The term ‘net metering service’ means
22 service to an electric consumer under which elec-
23 tricity generated by that consumer from an eligible
24 on-site generating facility and delivered to the dis-
25 tribution system through the same meter through

1 which purchased electricity is received may be used
2 to offset electricity provided by the retail electric
3 supplier to the electric consumer during the applica-
4 ble billing period so that an electric consumer is
5 billed only for the net electricity consumed during
6 the billing period, but in no event shall the net be
7 less than zero during any calendar year.

8 “(b) REQUIREMENT TO PROVIDE NET METERING
9 SERVICE.—Each retail electric supplier shall make avail-
10 able upon request net metering service to any retail elec-
11 tric consumer that the supplier currently serves or solicits
12 for service.

13 “(c) RATES AND CHARGES.—

14 “(1) IDENTICAL CHARGES.—A retail electric
15 supplier—

16 “(A) shall charge the owner or operator of
17 an on-site generating facility rates and charges
18 that are identical to those that would be
19 charged other retail electric customers of the
20 electric company in the same rate class; and

21 “(B) shall not charge the owner or oper-
22 ator of an on-site generating facility any addi-
23 tional standby, capacity, interconnection, or
24 other rate or charge.

1 “(2) MEASUREMENT.—A retail electric supplier
2 that supplies electricity to the owner or operator of
3 an on-site generating facility shall measure the
4 quantity of electricity produced by the on-site facility
5 and the quantity of electricity consumed by the
6 owner or operator of an on-site generating facility
7 during a billing period in accordance with normal
8 metering practices.

9 “(3) ELECTRICITY SUPPLIED EXCEEDING ELEC-
10 TRICITY GENERATED.—If the quantity of electricity
11 supplied by a retail electric supplier during a billing
12 period exceeds the quantity of electricity generated
13 by an on-site generating facility and fed back to the
14 electric distribution system during the billing period,
15 the supplier may bill the owner or operator for the
16 net quantity of electricity supplied by the retail elec-
17 tric supplier, in accordance with normal metering
18 practices.

19 “(4) ELECTRICITY GENERATED EXCEEDING
20 ELECTRICITY SUPPLIED.—If the quantity of elec-
21 tricity generated by an on-site generating facility
22 during a billing period exceeds the quantity of elec-
23 tricity supplied by the retail electric supplier during
24 the billing period—

1 “(A) the retail electric supplier may bill
2 the owner or operator of the on-site generating
3 facility for the appropriate charges for the bill-
4 ing period in accordance with paragraph (2);
5 and

6 “(B) the owner or operator of the on-site
7 generating facility shall be credited for the ex-
8 cess kilowatt-hours generated during the billing
9 period, with the kilowatt-hour credit appearing
10 on the bill for the following billing period.

11 “(5) UNUSED CREDITS.—At the beginning of
12 each calendar year, any unused kilowatt-hour credits
13 accumulated by an owner or operator of an on-site
14 generating facility during the previous calendar year
15 shall expire without compensation to the owner or
16 operator of an on-site generating facility.

17 “(d) SAFETY AND PERFORMANCE STANDARDS.—(1)
18 An eligible on-site generating facility and net metering
19 system used by a retail electric consumer shall meet all
20 applicable safety, performance, reliability, and inter-
21 connection standards established by the National Elec-
22 trical Code, the Institute of Electrical and Electronics En-
23 gineers, and Underwriters Laboratories.

24 “(2) The Commission, after consultation with State
25 regulatory authorities and nonregulated local distribution

1 systems and after notice and opportunity for comment,
2 may adopt, by rule, additional control and testing require-
3 ments for on-site generating facilities and net metering
4 systems that the Commission determines are necessary to
5 protect public safety and system reliability.

6 “(e) INTERCONNECTION STANDARDS.—(1) The Com-
7 mission shall promulgate regulations requiring that the
8 owners or operators of eligible on-site generating facilities
9 and net metering systems comply with uniform national
10 standards, consistent with this section, for the physical
11 connection between such facilities and systems and local
12 distribution systems. At the election of the owner or oper-
13 ator of the generation facility concerned connections meet-
14 ing such standards may be made—

15 “(A) by such owner or operator at such owner’s
16 or operator’s expense, or

17 “(B) by the owner or operator of the local dis-
18 tribution system upon the request of the owner or
19 operator of the generating facility and pursuant to
20 an offer by the owner or operator of the generating
21 facility to reimburse the local distribution system in
22 an amount equal to the minimum cost of such con-
23 nection, consistent with the procurement procedures
24 of the State in which the facility is located.

1 Such standards shall be consistent with all applicable safe-
2 ty and performance standards established by the national
3 electrical code, the Institute of Electrical and Electronics
4 Engineers, or Underwriters Laboratories and with such
5 additional safety and reliability standards as the Commis-
6 sion shall, by rule, prescribe.

7 “(2) The regulations under this section shall establish
8 such measures for the safety and reliability of the affected
9 equipment and local distribution systems as may be appro-
10 priate.

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

20 (c) TABLE OF CONTENTS.—The table of contents for
21 title II of the Public Utility Regulatory Policies Act of
22 1978 (16 U.S.C. 2601 and following) is amended by add-
23 ing the following at the end thereof:

“Sec. 215. Net metering.”.

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

2 Title II of the Public Utility Regulatory Policies Act
3 of 1978 is amended by adding the following new section
4 at the end thereof:

5 **“SEC. 214. DISCLOSURE REQUIREMENTS.**

6 “(a) DEFINITIONS.—In this section:

7 “(1) EMISSIONS DATA.—The term ‘emissions
8 data’ means the type and amount of each pollutant
9 emitted by a generation facility in generating elec-
10 tricity.

11 “(2) GENERATION DATA.—The term ‘genera-
12 tion data’ means the type of fuel (such as coal, oil,
13 nuclear energy, or solar power) used by a generation
14 facility to generate electricity.

15 “(b) DISCLOSURE SYSTEM.—Not later than January
16 1, 2001, the Secretary, in consultation with the Commis-
17 sion, the Federal Trade Commission, the Administrator
18 of the Environmental Protection Agency, the Adminis-
19 trator of the Food and Drug Administration, and the Ad-
20 ministrator of the Energy Information Administration
21 shall prescribe a rule establishing a system of disclosure
22 that—

23 “(1) enables retail consumers to knowledgeably
24 compare, prior to purchase, retail electric service of-
25 ferings, including comparisons based on generation

1 source portfolios, emissions data, and price terms;
2 and

3 “(2) considers such factors as—

4 “(A) cost of implementation;

5 “(B) confidentiality of information; and

6 “(C) flexibility.

7 The rule under this section shall set forth the form, con-
8 tent, timing, and frequency of the disclosure required.
9 Such rule shall also require such disclosures in connection
10 with wholesale sales of electric energy, and such systems
11 of tracking sales of electric energy, as may be necessary
12 to carry out the requirements of this section.

13 “(c) REGULATION.—In accordance with the system
14 established under subsection (b), each person selling elec-
15 tric energy shall disclose to its customers emissions and
16 generation data for the electric energy sold and informa-
17 tion about whether the service is firm or interruptible.
18 When a seller has obtained electricity from more than 1
19 source that comprises 2 percent or more of the seller’s
20 energy portfolio, the disclosure shall include the percent-
21 age (accurate to within 1 percent) breakdown of the var-
22 ious sources of generation relied upon by the seller. When
23 a seller has obtained electricity from a power pool, this
24 fact shall be disclosed, and the seller shall disclose the ge-
25 neric categories (with percentages where applicable) of

1 power dispatched by the pool during the previous billing
2 cycle.

3 “(d) TIMELINESS OF DISCLOSURE.—Each electric
4 utility shall include the disclosures required under this sec-
5 tion in all written communications describing an energy
6 product sent directly to consumers, including written of-
7 fers and direct mail advertisements, and in materials ap-
8 pearing at internet sites. Each electric utility shall ensure
9 that the required disclosures are sent directly to a con-
10 sumer (1) prior to the consumer’s acceptance of an offer
11 of an energy product, or (2) in a post-sale mailing that
12 begins a period during which the consumer may withdraw
13 that acceptance. On a quarterly basis, such utility shall
14 include the disclosures required under subsection (c) in
15 each of its customer’s bills or in a separate mailing.

16 “(e) FORMAT OF DISCLOSURE.—In promulgating the
17 rules required under this section, the Secretary shall de-
18 velop standard formats for disclosure of energy product
19 information required under this section. Such formats
20 shall include a graphic representation of the characteris-
21 ties of the energy product being offered or the supplier’s
22 total energy portfolio, as appropriate, and a comparison
23 with regional averages. The Secretary, in consultation
24 with the Administrator of the Environmental Protection
25 Agency, shall determine, and address in rules to be issued

1 under this section, whether and how default generation
2 source and emissions values may be used in disclosure
3 statements as a proxy for that portion of the supplier's
4 energy portfolio that cannot be identified from the infor-
5 mation provided under subsection (f).

6 “(f) DISCLOSURE TO WHOLESALE CUSTOMERS.—In
7 every sale of electricity for resale, the seller shall provide
8 to the purchaser such information respecting generation
9 source and emissions characteristics as the Secretary may
10 require by rules under this section. This information may
11 include, but shall not be limited to, information from re-
12 gional system operators and administrators on wholesale
13 transactions, transactions in regional spot markets and
14 energy imported from other control areas; information
15 from wholesale and retail power marketing companies on
16 transactions with other sellers; and information from gen-
17 erating companies on the amount of energy generated at
18 each plant, the environmental characteristics of that en-
19 ergy and the amount of energy sold. The Secretary shall
20 have the authority to require all sellers to participate in
21 a tracking system designed to provide customers with com-
22 prehensive environmental information. Notwithstanding
23 the provisions of the Energy Supply and Environmental
24 Coordination Act of 1974, the Secretary shall determine

1 what information shall be kept confidential and what in-
2 formation shall be made available to the public.

3 “(g) ENERGY INFORMATION ADMINISTRATION.—The
4 Administrator of the Energy Information Administration
5 shall make available to the general public, on the same
6 basis as he now reports such data from public utilities,
7 electric power, fuel use and environmental data, including
8 respondent-level data, from all survey respondents in the
9 electric generation industry.

10 “(h) AUTHORITY TO OBTAIN BOOKS AND
11 RECORDS.—Authority to obtain information under section
12 11 of the Energy Supply and Environmental Coordination
13 Act of 1974 (15 U.S.C. 796) is available to the Secretary
14 to administer this section and to the Federal Trade Com-
15 mission to enforce this section. The Secretary shall take
16 appropriate action to protect the confidentiality of com-
17 petitively sensitive information.

18 “(i) PROHIBITED ACTS AND ENFORCEMENT.—It is
19 an unfair or deceptive act or practice in or affecting com-
20 merce (within the meaning of section 5(a)(1) of the Fed-
21 eral Trade Commission Act (15 U.S.C. 45(a)(1)) for any
22 person to fail to provide information required under the
23 rules issued under this section or to provide false or mis-
24 leading information with respect to disclosures required by
25 this section or the rules issued under this section.

1 “(j) STATE AUTHORITY.—Nothing in this section
2 shall preclude or deny the right of any State or political
3 subdivision thereof to adopt or enforce any law or rule pre-
4 scribing the form, content, or timing of supplier disclosure
5 in addition to the requirements of this section.

6 “(k) REGULATIONS.—The Secretary may promulgate
7 such regulations, conduct such investigations, and take
8 such other actions as are necessary or appropriate to im-
9 plement and obtain compliance with this section and regu-
10 lations promulgated under this section.”.

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

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

14 (1) any standard or limitation respecting emis-
15 sions of air pollutants; or

16 (2) any requirement respecting control or
17 abatement of air pollution;

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

21 **SEC. 11. PURPA REPEAL.**

22 (a) NEW CONTRACTS.—After the date of enactment
23 of this Act, no electric utility shall be required to enter
24 into a new contract or obligation to purchase or to sell

1 electric energy or capacity pursuant to section 210 of the
2 Public Utility Regulatory Policies Act of 1978.

3 (b) EXISTING RIGHTS AND REMEDIES NOT AF-
4 FECTED.—Nothing in this section affects the rights or
5 remedies of any party with respect to the purchase or sale
6 of electric energy or capacity from or to a facility deter-
7 mined to be a qualifying small power production facility
8 or a qualifying cogeneration facility under section 210 of
9 the Public Utility Regulatory Policies Act of 1978 pursu-
10 ant to any contract or obligation to purchase or to sell
11 electric energy or capacity in effect on the date of enact-
12 ment of this Act, including the right to recover the costs
13 of purchasing such electric energy or capacity.

14 (c) INTERPRETATIONS AND ACTIONS TAKEN.—Noth-
15 ing in this Act may be deemed or construed as implying
16 congressional ratification of any interpretation of, or any
17 action taken pursuant to, the Public Utility Regulatory
18 Policies Act of 1978.

19 (d) RECOVERY OF COSTS.—In order to assure the
20 sanctity of existing contracts and recovery by electric utili-
21 ties purchasing electric energy or capacity from a quali-
22 fying facility pursuant to any legally enforceable obligation
23 entered into or imposed pursuant to section 210 of the
24 Public Utility Regulatory Policies Act of 1978 prior to the
25 date of enactment of this Act of all costs associated with

1 such purchases, the Commission shall promulgate and en-
2 force such regulations as may be required to assure that
3 an electric utility shall collect the costs associated with
4 such purchases from a qualifying facility upon honoring
5 its obligations under such contracts. Such regulations
6 shall be treated as a rule enforceable under the Federal
7 Power Act (16 U.S.C. 791a–825r).

8 (e) DEFINITIONS.—For purposes of this section:

9 (1) The term “Commission” means the Federal
10 Energy Regulatory Commission.

11 (2) The term “electric utility” means any per-
12 son, State agency, or Federal agency, which sells
13 electric energy.

14 (3) The term “qualifying small power produc-
15 tion facility” has the same meaning as provided in
16 section 3(17)(C) of the Federal Power Act.

17 (4) The term “qualifying cogeneration facility”
18 has the same meaning as provided in section
19 3(18)(A) of the Federal Power Act.

20 (5) The term “qualifying facility” means either
21 a small power production facility or a qualifying co-
22 generation facility.

1 **SEC. 12. ILLEGAL CHANGES IN RETAIL CUSTOMER SELEC-**
2 **TIONS.**

3 Title II of the Public Utility Regulatory Policies Act
4 of 1978 is amended by adding the following new section
5 at the end thereof:

6 **“SEC. 216. ILLEGAL CHANGES IN RETAIL CUSTOMER SE-**
7 **LECTIONS (SLAMMING PROHIBITION); CRAM-**
8 **MING PROHIBITION.**

9 “(a) PROHIBITION.—No person shall submit or exe-
10 cute (1) a change in the selection made by a retail electric
11 supply customer, or (2) a change to the number of prod-
12 ucts or services offered, except in accordance with such
13 verification procedures as the State regulatory authority
14 shall prescribe. Such authority may also prescribe such ad-
15 ditional procedures regarding changes in retail electric
16 supply customer selection and changes in the number of
17 products or services offered.

18 “(b) LIABILITY FOR CHARGES.—Any person who vio-
19 lates the verification procedures described in subsection
20 (a) and who collects charges from a customer shall be
21 liable—

22 “(1) to the customer in an amount equal to all
23 charges paid by such customer after violation; and

24 “(2) in the case of a change referred to in sub-
25 section (a)(1), to the retail electric supplier pre-

1 shall disclose consumer information, upon affirmative
2 written request by the consumer, to any person designated
3 by the consumer.

4 “(c) AGGREGATE CONSUMER INFORMATION.—Any
5 person that receives or obtains consumer information by
6 virtue of its provision of retail electric service or metering
7 and billing services may use, disclose, or permit access to
8 aggregate consumer information other than for the pur-
9 poses described in subsection (a). An electric utility or me-
10 tering or billing service provider may use, disclose, or per-
11 mit access to aggregate consumer information other than
12 for purposes described in subsection (a) only if it provides
13 such aggregate information to other retail electric service
14 providers on reasonable and nondiscriminatory terms and
15 conditions upon reasonable request for such information.

16 “(d) EXCEPTIONS.—Nothing in this section prohibits
17 an electric utility or metering and billing service provider
18 from using, disclosing, or permitting access to consumer
19 information obtained from its consumers, either directly
20 or indirectly through its agents—

21 “(1) to initiate, render, bill, and collect for re-
22 tail electric services or metering and billing services;

23 “(2) to protect the rights or property of the
24 electric utility or metering and billing service pro-
25 vider, or to protect consumers of those services and

1 other service providers from fraudulent, abusive, un-
2 lawful use of, or subscription to such services; or

3 “(3) for purposes of compliance with any other
4 Federal or State law or regulation authorizing dis-
5 closure of information to a Federal or State agency.

6 “(e) DEFINITIONS.—As used in this section:

7 “(1) CONSUMER INFORMATION.—The term
8 ‘consumer information’ means—

9 “(A) information that relates to the quan-
10 tity, technical configuration, type, destination,
11 and amount of use of a retail electric service
12 subscribed to by any consumer, and that is
13 made available to an electric utility or metering
14 and billing service provider solely by virtue of
15 its business relationship; and

16 “(B) information contained in the bills per-
17 taining to retail electric service received by a
18 consumer.

19 “(2) AGGREGATE CONSUMER INFORMATION.—
20 The term ‘aggregate consumer information’ means
21 collective data that relates to a group or category of
22 services or consumers, from which individual con-
23 sumer identities and characteristics have been re-
24 moved.”.

○