

107TH CONGRESS
1ST SESSION

H. R. 1945

To amend the Federal Power Act and the Internal Revenue Code of 1986 to encourage the development and deployment of innovative and efficient energy technologies.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2001

Mr. QUINN (for himself, Mr. MEEHAN, and Mr. DOYLE) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Federal Power Act and the Internal Revenue Code of 1986 to encourage the development and deployment of innovative and efficient energy technologies.

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 “Combined Heat and Power Advancement Act of 2001”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.
 Sec. 2. Findings.
 Sec. 3. Purpose.

TITLE I—INTERCONNECTION

Sec. 101. Interconnection.

TITLE II—INVESTMENT TAX CREDIT FOR COMBINED HEAT AND
 POWER SYSTEMS

Sec. 201. Investment tax credit for combined heat and power systems.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the removal of barriers to the development
 4 and deployment of combined heat and power tech-
 5 nologies and systems, an example of an array of in-
 6 novative energy-supply and energy-efficient tech-
 7 nologies and systems, would—

8 (A) encourage technological innovation;

9 (B) reduce energy prices;

10 (C) spur economic development;

11 (D) enhance productivity;

12 (E) increase employment; and

13 (F) improve environmental quality and en-
 14 ergy self-sufficiency;

15 (2) the level of efficiency of the United States
 16 electricity-generating system has been stagnant over
 17 the past several decades;

18 (3) technologies and systems available as of the
 19 date of enactment of this Act, including a host of in-

1 novative onsite, distributed generation technologies,
2 could—

3 (A) dramatically increase productivity;

4 (B) double the efficiency of the United
5 States electricity-generating system; and

6 (C) reduce emissions of regulated pollut-
7 ants and greenhouse gases;

8 (4) innovative electric technologies emit a much
9 lower level of pollutants as compared to the average
10 quantity of pollutants generated by United States
11 electric generating plants as of the date of enact-
12 ment of this Act;

13 (5) a significant proportion of the United
14 States energy infrastructure will need to be replaced
15 by 2010;

16 (6) the public interest would best be served if
17 that infrastructure were replaced by innovative tech-
18 nologies that dramatically increase productivity, im-
19 prove efficiency, and reduce pollution;

20 (7) financing and regulatory practices in effect
21 as of the date of enactment of this Act do not recog-
22 nize the environmental and economic benefits to be
23 obtained from the avoidance of transmission and dis-
24 tribution losses, and the reduced load on the elec-

1 tricity-generating system, provided by onsite, com-
2 bined heat and power production;

3 (8) many legal, regulatory, informational, and
4 perceptual barriers block the development and dis-
5 semination of combined heat and power and other
6 innovative energy technologies; and

7 (9) because of those barriers, United States
8 taxpayers are not receiving the benefits of the sub-
9 stantial research and development investment in in-
10 novative energy technologies made by the Federal
11 Government.

12 **SEC. 3. PURPOSE.**

13 The purpose of this Act is to encourage energy pro-
14 ductivity and efficiency increases by—

15 (1) removing barriers to the development and
16 deployment of combined heat and power technologies
17 and systems; and

18 (2) establishing an investment tax credit for
19 qualified combined heat and power systems.

20 **TITLE I—INTERCONNECTION**

21 **SEC. 101. INTERCONNECTION.**

22 (a) DEFINITIONS.—Section 3 of the Federal Power
23 Act (16 U.S.C. 796) is amended—

24 (1) by striking paragraph (23) and inserting
25 the following:

1 “(23) TRANSMITTING UTILITY.—The term
2 ‘transmitting utility’ means any entity (notwith-
3 standing section 201(f)) that owns, controls, or oper-
4 ates an electric power transmission facility that is
5 used for the sale of electric energy.”; and

6 (2) by adding at the end the following:

7 “(26) APPROPRIATE REGULATORY AUTHOR-
8 ITY.—The term ‘appropriate regulatory authority’
9 means—

10 “(A) the Commission;

11 “(B) a State commission;

12 “(C) a municipality; or

13 “(D) a cooperative that is self-regulating
14 under State law and is not a public utility.

15 “(27) GENERATING FACILITY.—The term ‘gen-
16 erating facility’ means a facility that generates elec-
17 tric energy.

18 “(28) LOCAL DISTRIBUTION UTILITY.—The
19 term ‘local distribution utility’ means an entity that
20 owns, controls, or operates an electric power dis-
21 tribution facility that is used for the sale of electric
22 energy.

23 “(29) NON-FEDERAL REGULATORY AUTHOR-
24 ITY.—The term ‘non-Federal regulatory authority’

1 means an appropriate regulatory authority other
2 than the Commission.”.

3 (b) INTERCONNECTION TO DISTRIBUTION FACILI-
4 TIES.—Section 210 of the Federal Power Act (16 U.S.C.
5 824i) is amended—

6 (1) by redesignating subsection (e) as sub-
7 section (g); and

8 (2) by inserting after subsection (d) the fol-
9 lowing:

10 “(e) INTERCONNECTION TO DISTRIBUTION FACILI-
11 TIES.—

12 “(1) INTERCONNECTION.—

13 “(A) IN GENERAL.—A local distribution
14 utility shall interconnect a generating facility
15 with the distribution facilities of the local dis-
16 tribution utility if the owner of the generating
17 facility—

18 “(i) complies with the final rule pro-
19 mulgated under paragraph (2); and

20 “(ii) pays the costs of the interconnec-
21 tion.

22 “(B) COSTS.—The costs of the
23 interconnection—

24 “(i) shall be just and reasonable, and
25 not unduly discriminatory, as determined

1 by the appropriate regulatory authority;
2 and

3 “(ii) shall be comparable to the costs
4 charged by the local distribution utility for
5 interconnection by any similarly situated
6 generating facility to the distribution facili-
7 ties of the local distribution utility.

8 “(C) APPLICABLE REQUIREMENTS.—The
9 right of a generating facility to interconnect
10 under subparagraph (A) does not—

11 “(i) relieve the generating facility or
12 the local distribution utility of other Fed-
13 eral, State, or local requirements; or

14 “(ii) provide the generating facility
15 with transmission or distribution service.

16 “(2) RULE.—

17 “(A) IN GENERAL.—Not later than 1 year
18 after the date of enactment of this subpara-
19 graph, the Commission shall promulgate a final
20 rule to establish reasonable and appropriate
21 technical standards for the interconnection of a
22 generating facility with the distribution facili-
23 ties of a local distribution utility.

1 “(B) PROCESS.—To the extent feasible,
2 the Commission shall develop the standards
3 through a process involving interested parties.

4 “(C) ADVISORY COMMITTEE.—The Com-
5 mission shall establish an advisory committee
6 composed of qualified experts to make rec-
7 ommendations to the Commission concerning
8 development of the standards.

9 “(D) ADMINISTRATION.—

10 “(i) BY A NON-FEDERAL REGULATORY
11 AUTHORITY.—Except where subject to the
12 jurisdiction of the Commission pursuant to
13 provisions other than clause (ii), a non-
14 Federal regulatory authority may admin-
15 ister and enforce the rule promulgated
16 under subparagraph (A).

17 “(ii) BY THE COMMISSION.—To the
18 extent that a non-Federal regulatory au-
19 thority does not administer and enforce the
20 rule, the Commission shall administer and
21 enforce the rule with respect to inter-
22 connection in that jurisdiction.

23 “(3) RIGHT TO BACKUP POWER.—

24 “(A) IN GENERAL.—In accordance with
25 subparagraph (B), a local distribution utility

1 shall offer to sell backup power to a generating
2 facility that has interconnected with the local
3 distribution utility to the extent that the local
4 distribution utility—

5 “(i) is not subject to an order of a
6 non-Federal regulatory authority to pro-
7 vide open access to the distribution facili-
8 ties of the local distribution utility;

9 “(ii) has not offered to provide open
10 access to the distribution facilities of the
11 local distribution utility; or

12 “(iii) does not allow a generating fa-
13 cility to purchase backup power from an-
14 other entity using the distribution facilities
15 of the local distribution utility.

16 “(B) RATES, TERMS, AND CONDITIONS.—A
17 sale of backup power under subparagraph (A)
18 shall be at such a rate, and under such terms
19 and conditions, as are just and reasonable and
20 not unduly discriminatory or preferential, tak-
21 ing into account the actual incremental cost,
22 whenever incurred by the local distribution util-
23 ity, to supply such backup power service during
24 the period in which the backup power service is

1 provided, as determined by the appropriate reg-
2 ulatory authority.

3 “(C) NO REQUIREMENT FOR CERTAIN
4 SALES.—A local distribution utility shall not be
5 required to offer backup power for resale to any
6 entity other than the entity for which the
7 backup power is purchased.

8 “(D) NEW OR EXPANDED LOADS.—To the
9 extent backup power is used to serve a new or
10 expanded load on the distribution system, the
11 generating facility shall pay any reasonable
12 costs associated with any transmission, distribu-
13 tion, or generation upgrade required to provide
14 such service.”

15 (e) INTERCONNECTION TO TRANSMISSION FACILI-
16 TIES.—Section 210 of the Federal Power Act (16 U.S.C.
17 824i) is amended by inserting after subsection (e) (as
18 added by subsection (b)) the following:

19 “(f) INTERCONNECTION TO TRANSMISSION FACILI-
20 TIES.—

21 “(1) INTERCONNECTION.—

22 “(A) IN GENERAL.—Notwithstanding sub-
23 sections (a) and (c), a transmitting utility shall
24 interconnect a generating facility with the

1 transmission facilities of the transmitting utility
2 if the owner of the generating facility—

3 “(i) complies with the final rule pro-
4 mulgated under paragraph (2); and

5 “(ii) pays the costs of the intercon-
6 tion.

7 “(B) COSTS.—

8 “(i) IN GENERAL.—Subject to clause
9 (ii), the costs of the interconnection—

10 “(I) shall be just and reasonable
11 and not unduly discriminatory; and

12 “(II) shall be comparable to the
13 costs charged by the transmitting util-
14 ity for interconnection by any simi-
15 larly situated generating facility to the
16 transmitting facilities of the transmit-
17 ting utility.

18 “(ii) EFFECT OF FERC LITE.—A non-
19 Federal regulatory authority that, under
20 any provision of Federal law enacted be-
21 fore, on, or after the date of enactment of
22 this subparagraph, is authorized to deter-
23 mine the rates for transmission service
24 shall be authorized to determine the costs
25 of any interconnection under this subpara-

1 graph in accordance with that provision of
2 Federal law.

3 “(C) APPLICABLE REQUIREMENTS.—The
4 right of a generating facility to interconnect
5 under subparagraph (A) does not—

6 “(i) relieve the generating facility or
7 the transmitting utility of other Federal,
8 State, or local requirements; or

9 “(ii) provide the generating facility
10 with transmission or distribution service.

11 “(2) RULE.—

12 “(A) IN GENERAL.—Not later than 1 year
13 after the date of enactment of this subpara-
14 graph, the Commission shall promulgate a final
15 rule to establish reasonable and appropriate
16 technical standards for the interconnection of a
17 generating facility with the transmission facili-
18 ties of a transmitting utility.

19 “(B) PROCESS.—To the extent feasible,
20 the Commission shall develop the standards
21 through a process involving interested parties.

22 “(C) ADVISORY COMMITTEE.—The Com-
23 mission shall establish an advisory committee
24 composed of qualified experts to make rec-

1 ommendations to the Commission concerning
2 development of the standards.

3 “(3) RIGHT TO BACKUP POWER.—

4 “(A) IN GENERAL.—In accordance with
5 subparagraph (B), a transmitting utility shall
6 offer to sell backup power to a generating facil-
7 ity that has interconnected with the transmit-
8 ting utility unless—

9 “(i) Federal or State law (including
10 regulations) allows a generating facility to
11 purchase backup power from an entity
12 other than the transmitting utility; or

13 “(ii) a transmitting utility allows a
14 generating facility to purchase backup
15 power from an entity other than the trans-
16 mitting utility using—

17 “(I) the transmission facilities of
18 the transmitting utility; and

19 “(II) the transmission facilities
20 of any other transmitting utility.

21 “(B) RATES, TERMS, AND CONDITIONS.—A
22 sale of backup power under subparagraph (A)
23 shall be at such a rate, and under such terms
24 and conditions, as are just and reasonable and
25 not unduly discriminatory or preferential, tak-

1 ing into account the actual incremental cost,
2 whenever incurred by the local distribution util-
3 ity, to supply such backup power service during
4 the period in which the backup power service is
5 provided, as determined by the appropriate reg-
6 ulatory authority.

7 “(C) NO REQUIREMENT FOR CERTAIN
8 SALES.—A transmitting utility shall not be re-
9 quired to offer backup power for resale to any
10 entity other than the entity for which the
11 backup power is purchased.

12 “(D) NEW OR EXPANDED LOADS.—To the
13 extent backup power is used to serve a new or
14 expanded load on the transmission system, the
15 generating facility shall pay any reasonable
16 costs associated with any transmission, distribu-
17 tion, or generation upgrade required to provide
18 such service.”.

19 (d) CONFORMING AMENDMENTS.—Section 210 of the
20 Federal Power Act (16 U.S.C. 824i) is amended—

21 (1) in subsection (a)(1)—

22 (A) by inserting “transmitting utility, local
23 distribution utility,” after “electric utility,”;
24 and

1 (B) in subparagraph (A), by inserting
2 “any transmitting utility,” after “small power
3 production facility,”;

4 (2) in subsection (b)(2), by striking “an evi-
5 dentiary hearing” and inserting “a hearing”;

6 (3) in subsection (c)(2)—

7 (A) in subparagraph (B), by striking “or”
8 at the end;

9 (B) in subparagraph (C), by striking
10 “and” at the end and inserting “or”; and

11 (C) by adding at the end the following:

12 “(D) promote competition in electricity mar-
13 kets, and”; and

14 (4) in subsection (d), by striking the last sen-
15 tence.

16 **TITLE II—INVESTMENT TAX**
17 **CREDIT FOR COMBINED HEAT**
18 **AND POWER SYSTEMS**

19 **SEC. 201. INVESTMENT TAX CREDIT FOR COMBINED HEAT**
20 **AND POWER SYSTEMS.**

21 (a) IN GENERAL.—Section 48(a)(3)(A) of the Inter-
22 nal Revenue Code of 1986 (relating to energy property)
23 is amended by striking “or” at the end of clause (i), by
24 adding “or” at the end of clause (ii), and by adding at
25 the end the following new clause:

1 “(iii) a qualified combined heat and
2 power system,”.

3 (b) QUALIFIED COMBINED HEAT AND POWER SYS-
4 TEMS.—

5 (1) IN GENERAL.—Section 48 of the Internal
6 Revenue Code of 1986 (relating to energy credit; re-
7 forestation credit) is amended by adding at the end
8 the following new subsection:

9 “(c) QUALIFIED COMBINED HEAT AND POWER SYS-
10 TEMS CREDIT.—

11 “(1) IN GENERAL.—For purposes of this sub-
12 part, the term ‘qualified combined heat and power
13 system’ means any property—

14 “(A) comprising a system that uses the
15 same energy source for the simultaneous or se-
16 quential generation of electricity or mechanical
17 shaft power (or both) and steam or other forms
18 of useful thermal energy (including heating and
19 cooling applications), and

20 “(B) which meets the requirements de-
21 scribed in paragraph (2).

22 “(2) REQUIREMENTS.—The requirements de-
23 scribed in this paragraph are as follows:

24 “(A) MINIMUM STANDARDS FOR QUALI-
25 FIED COMBINED HEAT AND POWER SYSTEMS.—

1 “(i) CAPACITY.—A qualified combined
2 heat and power system must have an elec-
3 trical capacity in excess of 50 kilowatts or
4 with a capacity to produce mechanical
5 power in excess of 67 horsepower (or an
6 equivalent combination of electrical and
7 mechanical energy capacities).

8 “(ii) POWER PRODUCED.—A qualified
9 combined heat and power system must
10 produce at least 20 percent of its total use-
11 ful energy in the form of thermal energy
12 and at least 20 percent of its total useful
13 energy in the form of electrical or mechan-
14 ical power (or a combination thereof).

15 “(B) ENERGY EFFICIENCY STANDARDS.—

16 “(i) ENERGY EFFICIENCY FOR SMALL-
17 ER SYSTEMS.—In the case of a qualified
18 combined heat and power system with an
19 electrical capacity of not more than 50
20 megawatts (or a mechanical energy capac-
21 ity in excess of 67,000 horsepower), the
22 total energy efficiency of the system must
23 exceed 60 percent.

24 “(ii) ENERGY EFFICIENCY FOR LARG-
25 ER SYSTEMS.—In the case of a qualified

1 combined heat and power system with an
2 electrical capacity in excess of 50
3 megawatts (or a mechanical energy capac-
4 ity in excess of 67,000 horsepower), the
5 total energy efficiency of the system must
6 exceed 70 percent.

7 “(iii) ENERGY EFFICIENCY.—For pur-
8 poses of this paragraph, the total energy
9 efficiency of a combined heat and power
10 system is computed as the sum of the use-
11 ful electrical, thermal, and mechanical
12 power produced by the system at normal
13 operating rates, measured on a Btu basis,
14 divided by the lower heating value of the
15 primary fuel source for the system sup-
16 plied.”.

17 (2) QUALIFIED COMBINED HEAT AND POWER
18 SYSTEM AS PUBLIC UTILITY PROPERTY.—Section
19 48(a)(3) of such Code (relating to energy property)
20 is amended by inserting “(other than qualified com-
21 bined heat and power systems)” after “‘energy
22 property’” in the last sentence.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to property placed in service after
3 June 30, 2001, and before June 30, 2005.

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