

107TH CONGRESS  
1ST SESSION

# H. R. 238

To amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2001

Mr. HUNTER (for himself, Ms. ESHOO, Mr. CUNNINGHAM, Mr. ISSA, Mrs. CAPPS, and Ms. LEE) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To amend the Department of Energy Authorization Act to authorize the Secretary of Energy to impose interim limitations on the cost of electric energy to protect consumers from unjust and unreasonable prices in the electric energy market.

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. INTERIM REGIONAL LIMITATIONS.**

4       Title IV of the Department of Energy Organization  
5       Act (42 U.S.C. 7171 et seq.) is amended by adding at  
6       the end the following:

1 **“SEC. 408. INTERIM REGIONAL LIMITATIONS.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) COMMISSION.—The term ‘Commission’  
4 means the Federal Energy Regulatory Commission.

5 “(2) COST-OF-SERVICE BASED RATE.—The  
6 term ‘cost-of-service based rate’ means a rate,  
7 charge, or classification for the sale of electric en-  
8 ergy that is equal to—

9 “(A) all the variable and fixed costs for  
10 producing the electric energy; and

11 “(B) a return on and of any invested cap-  
12 ital.

13 “(3) INTERIM REGIONAL PRICE LIMITATION.—  
14 The term ‘interim regional price limitation’ means a  
15 price limitation on the rates charged for the provi-  
16 sion of electric energy that—

17 “(A) includes a region-wide wholesale elec-  
18 tric energy price limitation for a region com-  
19 prising the Western Systems Coordinating  
20 Council; and

21 “(B) reflects load differentiated demand.

22 “(4) LOAD DIFFERENTIATED.—The term ‘load  
23 differentiated’ means the difference between price  
24 limitations by season, time of day, and other rel-  
25 evant usage patterns.

1           “(5) SECRETARY.—The term ‘Secretary’ means  
2           the Secretary of Energy.

3           “(b) AUTHORITY TO IMPOSE LIMITATIONS.—The  
4           Secretary shall impose, in any region of the United States,  
5           an interim regional price limitation, or cost-of-service  
6           based rate, on any sale of electric energy at wholesale in  
7           interstate commerce subject to the jurisdiction of the  
8           Commission under part II of the Federal Power Act  
9           whenever—

10           “(1) the Commission has determined that the  
11           rate, charge, or classification otherwise applicable to  
12           such sale is unjust, unreasonable, or unduly pref-  
13           erential or the Secretary determines that the rate,  
14           charge, or classification otherwise applicable to such  
15           sale exceeds the marginal cost of producing the elec-  
16           tric energy by a significant amount or for a signifi-  
17           cant length of time; and

18           “(2) the Secretary determines that—

19           “(A) the continued existence of such rate,  
20           charge, or classification threatens public health  
21           and safety or the economy of any State or re-  
22           gion; and

23           “(B) the Commission has otherwise failed  
24           to act to improve the situation.

1 For purposes of carrying out this section, the Secretary  
2 may exercise any authority vested in the Commission  
3 under the Federal Power Act for the fixing and enforcing  
4 of rates, charges, and classifications that are just and rea-  
5 sonable under Part II of that Act.

6 “(c) DURATION.—A regional price limitation or cost-  
7 of-service based rate imposed under subsection (b) shall  
8 remain in effect until such time as the market reflects just  
9 and reasonable rates, as determined by the Secretary.

10 “(d) AUTHORITY TO OPT OUT.—

11 “(1) IN GENERAL.—The Governor of any State  
12 within a region in which a regional price limitation  
13 or cost-of-service based rate is imposed under sub-  
14 section (b) may waive the application of such limita-  
15 tion or rate to sales of electric energy to purchasers  
16 in that State by notifying the Secretary in writing  
17 at any time after imposition of the price limitation  
18 or cost-of-service based rate.

19 “(2) EFFECTIVE DATE.—Not later than 30  
20 days after receiving a letter from a Governor of any  
21 State under paragraph (1), the Secretary shall waive  
22 the application of the price limitation or cost-of-serv-  
23 ice based rate to sales of electric energy to pur-  
24 chasers in that State.

1       “(e) PURPA FACILITIES NOT COVERED.—The au-  
2       thority of subsection (b) shall not apply to any sale of elec-  
3       tric energy generated by a qualifying small power produc-  
4       tion facility or qualifying cogeneration facility (as defined  
5       in section 3 of the Federal Power Act) that is exempt in  
6       whole or in part from the Federal Power Act as provided  
7       in section 210(e) of the Public Utility Regulatory Policies  
8       Act of 1978.

9       “(f) EFFECT ON OTHER LAW.—Nothing in this sec-  
10      tion affects any authority of the Commission under the  
11      Federal Power Act (16 U.S.C. 791a et seq.) with respect  
12      to sales of electric energy for which no determination has  
13      been made under subsection (b).

14      “(g) EFFECTIVE DATE.—This section shall apply to  
15      contracts for the sale of electric energy entered into or  
16      renewed after the enactment of this section.”.

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