

by Senators D'Amato and Moynihan, to amend section 832(e) of the Internal Revenue Code of 1986 to apply to financial guaranty insurance generally. Under present law, the tax and loss bonds provisions thereof are applicable to mortgage guaranty, lease guaranty, and tax-exempt bond insurance but are not applicable to insurance of other taxable debt instruments, a growing segment of the financial guaranty insurance business.

Article 69 of the New York Insurance Law, which governs financial guaranty insurance corporations, was enacted on May 14, 1989. Article 69 establishes contingency reserve requirements in respect of all financial guaranty insurance corporations where in the past these requirements only applied to insurers of municipal obligations.

In formulating this new legislation and establishing contingency reserve requirements applicable to all financial guaranty insurance corporations, there was no intention to create a disparity between insurers of taxable and tax-exempt obligations in respect of their ability to invest in tax and loss bonds. Section 6903(a)(7) of Article 69 provides that "any insurer providing financial guaranty insurance may invest the contingency reserve in tax and loss bonds purchased pursuant to Section 832(e) of the Internal Revenue Code (or any successor provision) only to the extent of the tax savings resulting from the deduction for federal income tax purposes of a sum equal to the annual contributions to the contingency reserve." This provision of Article 69 expressly contemplates that all financial guaranty insurers would be entitled to benefit from an investment in tax and loss bonds within the limitations provided by the insurance law.

S. 1106 eliminates the disparate treatment of insured mortgages, leases and tax exempt bonds, on the one hand, and of other insured taxable bonds, on the other, which the provisions of IRC section 832(e) now create. Your efforts to secure enactment of the proposal will be most appreciated.

Very truly yours,

EDWARD J. MUHL,
Superintendent of Insurance.

THE ELECTRIC POWER COMPETITION AND CONSUMER CHOICE ACT OF 1996

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1996

Mr. MARKEY. Mr. Speaker, today I am introducing legislation aimed at promoting competition in the electric utility industry. This legislation seeks to create Federal incentives for removal of existing State-level barriers to full competition and consumer choice in electricity generation.

Today, the generation, transmission, and distribution of electricity remains largely a monopoly enterprise. The monopoly nature of this industry has, in turn, necessitated a very strict system of Federal and State utility regulation aimed at protecting captive utility ratepayers from potential overcharges, abuses and conflicts of interest. Today, however, we are now at a crossroads. We now have an historic opportunity to bring full competition to the business of electricity generation. The transition to such a competitive market, however, will require both Federal and State action.

Electricity restructuring legislation at the Federal or State level should be aimed at demonopolizing the electric power industry,

not simply deregulating it. There is now no reason why electricity generation should remain a monopoly business, and no reason why consumers should not be free to choose their power supplier, just as they now can choose between rival phone companies. Our objective must be to create a competitive marketplace where many sellers and many buyers can come together. In some cases, this may mean getting rid of old utility regulations that no longer are needed because their purpose can now be achieved through reliance on market forces. In other cases, it may mean preserving existing rules where necessary to respond to those aspects of the industry which remain a monopoly, such as distribution of electricity over local power lines. But restructuring also means Congress will have to enact some new rules that assure the benefits of competition—lower prices and consumer choice—are not effectively undermined by anticompetitive practices by recovering utility monopolists who fall off the competition wagon.

Earlier this year, I introduced H.R. 2929, the Electric Power Competition Act of 1996 to advance the goal of electric utility demonopolization. That bill linked repeal of the mandatory power purchase provisions of PURPA to State action to open up full retail competition. This would be achieved either through utility divestiture of powerplants or by State approval of a so-called retail wheeling plans that would allow consumers to buy power from competing generating companies that would be granted nondiscriminatory access to utility power lines. In order to preserve environmentally sound renewable energy sources, energy conservation programs, and low-income consumer protections, H.R. 2929 also requires the States to certify they have met certain minimum standards in each of these areas in order to qualify for relief from PURPA. Finally, to promote a fully competitive marketplace, certain exemptions which electric utilities currently enjoy from the Federal anti-trust laws would be repealed.

At the time I introduced H.R. 2929 and in subsequent hearings before the Energy and Power Subcommittee I noted that in addition to these reforms, electric utility restructuring legislation also must address the risks that electric utility mergers, utility market power, or utility diversification into new lines of business might harm electricity consumers or undermine the emergence of a fully competitive electricity generation market. The legislation I am introducing today addresses each of these critical areas and should be viewed as the companion bill to H.R. 2929. The bill requires each State to initiate a retail competition rule-making proceeding pursuant to certain Federal standards; repeals PUHCA for those electric utility holding companies whose service territories have been opened up to full retail competition and met minimum standards for renewables, efficiency, and low-income consumer protections; and gives FERC and the States enhanced authority to oversee mergers and acquisitions to protect consumers from transactions that are inconsistent with effective competition in electricity markets or would increase electricity prices.

It also gives FERC and the States authority to regulate utility market power to guard against anticompetitive practices; grants FERC and the States authority over electric utility interaffiliate transactions to guard against

cross-subsidization or self-dealing; directs FERC to establish regional transmission markets to assure functionally efficient and non-discriminatory transmission and prevent pancaking of rates; and, assures FERC and State regulators have full access to electric utility books and records.

It is important to keep in mind that Congress enacted PUHCA 60 years ago in response to the myriad of anticonsumer abuses that occurred during the initial growth of the electric utility industry. These abuses included the creation of complex utility holding companies not readily susceptible to effective State regulation, cross-subsidization, self-dealing, and other abuses, and blatantly anticompetitive practices and activities. While much has changed in the electric power business since PUHCA was enacted in 1935, even in a restructured electricity industry, Congress must be concerned about the potential for a recurrence of such abuses. For example, utilities who control generation, transmission, and distribution assets might still engage in self-dealing transactions among their affiliates, cross-subsidize unregulated business ventures at the expense of the captive consumers in their monopoly transmission or distribution businesses, or exploit their substantial market power to impede the growth of effective competition. Moreover, the accelerating pace of utility mergers threatens to create giant megautilities that could dominate regional electricity markets and effectively bar other entrants from vying for customers.

Comprehensive electricity restructuring legislation must address each of these potential threats to the development of a competitive electric generation market. I intend for the reform proposals contained in this legislation to be considered as part of any comprehensive electricity legislation that moves through the Commerce Committee, and I look forward to working with my colleagues on a bipartisan basis to secure their enactment into law.

THOU SHALT NOT BEAR FALSE
WITNESS AGAINST THY NEIGHBOR

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 11, 1996

Mr. JACOBS. Mr. Speaker, I insert a July 29, 1966, letter to the editor of the Indianapolis Star and a July 1, 1996, article from the Indianapolis News.

Among the Ten Commandments of God Almighty is this: "Thou shalt not bear false witness against thy neighbor."

Of course the repulsive concept has garnered different terms through the years—slander, libel, perjury, smear, vicious gossip, mudslinging, character assassination, gutter tactics, McCarthyism, the politics of personal attack, uncivilized, and indecent. How about primitive? In the 81st Congress my father said, "The extremists thought they had President Truman in '48 and ever since they have been going around like a mad dog whose victim escaped."

And in defining the difference between the two major political parties, President Lyndon Johnson said, "We don't hate their Presidents." Perhaps a paraphrase is in order, to wit: We don't hate their Presidents' wives.