

105TH CONGRESS
2D SESSION

H. R. 4798

To provide for the restructuring of the electric power industry.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 1998

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

A BILL

To provide for the restructuring of the electric power
industry.

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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited the “Elec-
5 tricity Consumer, Worker, and Environmental Protection
6 Act of 1998”.

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

- Sec. 1. Short title and table of contents.
 - Sec. 2. Findings.
 - Sec. 3. Definitions.
 - Sec. 4. Severability.
 - Sec. 5. Enforcement.
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TITLE I—FEDERAL STANDARDS FOR ELECTRICITY SERVICE

- Sec. 101. Worker protections.
- Sec. 102. Consumer privacy.
- Sec. 103. Payment plans.
- Sec. 104. Bills.
- Sec. 105. Dispute resolution.
- Sec. 106. Distribution service and supply service quality standards.
- Sec. 107. Citizen utility boards.
- Sec. 108. Office of Consumer Counsel.
- Sec. 109. Prohibition of power plant bailouts.
- Sec. 110. Prohibition of affiliate abuses and cross-subsidies.
- Sec. 111. Mergers.
- Sec. 112. Pollution standards.
- Sec. 113. National Electric Public Benefit Board.
- Sec. 114. National Electric Public Benefit Fund.
- Sec. 115. Renewable energy portfolio standards.
- Sec. 116. Net-metering and interconnection standards.
- Sec. 117. Civil liability.

TITLE II—STATE STANDARDS FOR ELECTRICITY SERVICE

- Sec. 201. State certification for retail deregulation.
- Sec. 202. Prohibition of cost shifting.
- Sec. 203. Prohibition of affiliate abuses and cross-subsidies.
- Sec. 204. Prohibition of excessive generation market power.
- Sec. 205. Basic service.
- Sec. 206. Aggregation of consumers.
- Sec. 207. Worker protections.
- Sec. 208. Licensing and disclosure requirements for retail suppliers.
- Sec. 209. Regulation of distribution companies.
- Sec. 210. Change of supplier.
- Sec. 211. Distribution service disconnections and supply terminations.
- Sec. 212. Credit and collection practices.
- Sec. 213. Unfair trade practices.
- Sec. 214. Meters.
- Sec. 215. Exemption rescinded from Equal Credit Opportunity Act.
- Sec. 216. Consumer remedies.

1 **SEC. 2. FINDINGS.**2 **【To be supplied】**3 **SEC. 3. DEFINITIONS.**

4 For purposes of this Act:

5 (1) The term “Administrator” means the Ad-
6 ministrator of the Environmental Protection Agency.7 (2) The term “affiliate” of a specific company
8 means any company 5 percent or more of whose out-

1 standing voting securities are owned, controlled, or
2 held with power to vote, directly or indirectly, by
3 such specific company.

4 (3) The term “aggregator” means any person
5 that purchases or acquires retail electricity on behalf
6 of two or more consumers.

7 (4) The term “ancillary services” shall have the
8 same meaning assigned to it by the Commission.

9 (5) The term “antitrust law” includes “an Act
10 to protect Trade and Commerce against unlawful re-
11 straint and monopolies approved July 2, 1890” (The
12 Sherman Act, 15 U.S.C. 1–7); sections seventy-three
13 to seventy-seven, inclusive of an Act entitled “An
14 Act to reduce taxation, to provide revenue for the
15 Government and for other purposes of August 27,
16 1894” (The Wilson Tariff Act, 15 U.S.C. 8–11; sec-
17 tion 77 of The Wilson Tariff Act was not codified);
18 an Act to supplement existing laws against unlawful
19 restraint and monopolies, and for other purposes,
20 approved October 15, 1914 (The Clayton Act, 15
21 U.S.C. 12–22 and 27, and 29 U.S.C. 52 and 53);
22 and an Act to create a Federal Trade Commission,
23 to define its powers and duties, and for other pur-
24 poses approved September 26, 1914 (The Federal
25 Trade Commission Act, 15 U.S.C. 41 et seq.)

1 (6) The term “associate company” of a com-
2 pany means any company in the same holding com-
3 pany system with such company.

4 (7) The term “basic service” means the supply
5 and delivery of electricity to a consumer in instances
6 where the consumer is unable or unwilling to choose
7 a supplier in States that have deregulated retail
8 sales of electricity.

9 (8) The term “Board” means the National
10 Electric Public Benefit Board established under sec-
11 tion 113.

12 (9) The term “class” or “customer class”
13 means a group of customers with similar character-
14 istics (e.g., residential, commercial, industrial, etc.),
15 identified for the purpose of setting a rate for elec-
16 tric service.

17 (10) The term “commercial customer” means a
18 company that has traditionally receives a commercial
19 rate for electricity, as opposed to a residential or in-
20 dustrial rate. “Small commercial customers” are
21 commercial customers with a monthly peak demand
22 less than 1,000 kW, and “large commercial cus-
23 tomers” include all other commercial customers.

24 (11) The term “Commission” means the Fed-
25 eral Energy Regulatory Commission.

1 (12) The term “company” means a corporation,
2 not-for-profit organization, joint stock company,
3 partnership, association, business trust, organized
4 group of persons, whether incorporated or not, or a
5 receiver or receivers, trustee or trustees of any of
6 the foregoing.

7 (13) The terms “consumer” and “customer”
8 mean a person, government, corporation, or a com-
9 pany that purchases retail electricity for ultimate
10 consumption.

11 (14) The term “corporation” means any cor-
12 poration, not-for-profit organization, joint-stock com-
13 pany, partnership, association, rural electric coopera-
14 tive, municipal utility, business trust, organized
15 group of persons, whether incorporated or not, or a
16 receiver or receivers, trustee or trustees of any of
17 the foregoing.

18 (15) The term “distribution company” means
19 any company that owns or operates facilities used to
20 deliver retail electricity for ultimate consumption.

21 (16) The term “distribution facilities” means
22 facilities used to provide retail electricity for ulti-
23 mate consumption.

24 (17) The term “distributor” means a retail
25 electricity distributor.

1 (18) The term “electric generator” means a
2 person generating electricity.

3 (19) The term “electric utility company” means
4 any company that owns or operates facilities used
5 for the generation, transmission, or distribution of
6 electricity for sale.

7 (20) The term “end-use consumer” means a
8 person that purchases electricity based on metered
9 use but does not resell electricity based on metered
10 use.

11 (21) The term “Fund” means the National
12 Electric Public Benefit Fund established by section
13 113.

14 (22) The term “gas utility company” means
15 any company that owns or operates facilities used
16 for distribution at retail (other than the distribution
17 only in enclosed portable containers) of natural or
18 manufactured gas for heat, light, or power.

19 (23) The term “high-level nuclear waste”
20 means nuclear fuel that has undergone nuclear fis-
21 sion, or any nuclear fuel contaminated by nuclear
22 fuel that has undergone nuclear fission.

23 (24) The term “holding company system”
24 means a holding company together with its subsidi-
25 ary companies.

1 (25) The term “investor-owned company”
2 means any company whose shares are owned by pri-
3 vate individuals or companies.

4 (26) The term “large hydroelectric facility”
5 means a facility which has a power production ca-
6 pacity which, together with any other facilities lo-
7 cated at the same site, is greater than 80
8 megawatts.

9 (27) The term “load pocket” means a portion
10 of the generation, transmission, and distribution net-
11 work in which most of the electricity consumed by
12 electric loads is supplied by generating plants lo-
13 cated close to the loads, because transmission con-
14 straints limit the amount of electricity available from
15 more distant generating plants.

16 (28) The term “low-level nuclear waste” means
17 radioactive waste not classified as high-level radio-
18 active waste, transuranic waste, spent nuclear fuel,
19 or byproduct materials as defined in section 11e(2)
20 of the Atomic Energy Act of 1954 (42 U.S.C.
21 2021). This definition shall apply notwithstanding
22 any declaration by the Federal Government or any
23 State that any radioactive material is exempt from
24 any regulatory control.

1 (29) The term “municipal utility” means a city,
2 county, irrigation district, drainage district, public
3 utility district, or other political subdivision or agen-
4 cy of a State competent under the laws thereof to
5 carry on the business of a retail electricity distribu-
6 tor and/or a retail electricity supplier.

7 (30) The term “person” means an individual or
8 corporation.

9 (31) The term “public utility company” means
10 an electric utility company or gas utility company
11 but does not mean a qualifying facility as defined in
12 the Public Utility Regulatory Policies Act, or an ex-
13 empt wholesale generator or a foreign utility com-
14 pany defined in the Energy Policy Act of 1992.

15 (32) The term “public utility holding company”
16 means—

17 (A) any company that directly or indirectly
18 owns, controls, or holds with power to vote, 10
19 percent or more of the outstanding voting secu-
20 rities of a public utility company or of a holding
21 company of any public utility company; and

22 (B) any person, determined by the Securi-
23 ties and Exchange Commission, after notice and
24 opportunity for hearing, to exercise directly or
25 indirectly (either alone or pursuant to an ar-

1 rangement or understanding with one or more
2 persons) such a controlling influence over the
3 management or policies of any public utility or
4 holding company as to make it necessary or ap-
5 propriate for the protection of consumers with
6 respect to rates that such person be subject to
7 the obligations, duties, and liabilities imposed in
8 this title upon holding companies.

9 (33) The term “regulated service” means a
10 wholesale or retail service of which the price or rate
11 is regulated by a Federal, State, or local agency or
12 board.

13 (34) The term “renewable energy” means elec-
14 tricity generated from organic waste biomass (not
15 including municipal solid waste or black liquor),
16 dedicated biomass energy crops, landfill gas, geo-
17 thermal, solar, or wind resources.

18 (35) The term “renewable energy credit” means
19 a tradable certificate of proof that one kilowatt-hour
20 of renewable energy was generated by any person.

21 (36) The term “retail deregulation” means any
22 action taken by a State, with respect to retail elec-
23 tricity service, that reduces the public control and
24 oversight of business practices that affect the public
25 interest.

1 (37) The term “retail electricity” means elec-
2 tricity and ancillary services sold for ultimate con-
3 sumption.

4 (38) The term “retail electricity distributor”
5 means any person who delivers retail electricity to
6 consumers regardless of whether the consumers pur-
7 chase such electricity from the distributor or an al-
8 ternative supplier. A retail electricity distributor may
9 also be a retail electricity supplier.

10 (39) The term “retail electricity service” means
11 the production, generation, retail transmission, dis-
12 tribution, aggregation, retail marketing, retail
13 brokering, retail selling, or other retail supplying of
14 electricity, but does not mean transmission in inter-
15 state commerce.

16 (40) The term “retail electricity supplier”
17 means any person that sells retail electricity to con-
18 sumers, including without limitation regulated utility
19 companies or affiliates or associates of such compa-
20 nies, companies unaffiliated or not associated with
21 regulated utility companies, municipal utilities, coop-
22 erative utilities, local governments, and special dis-
23 tricts.

24 (41) The term “rural electric cooperative”
25 means an enterprise or organization owned by and

1 operated for the benefit of those receiving retail elec-
2 tricity (usually distribution and supply) and other
3 services from the cooperative, many of which have
4 received loans from the Administrator of the Rural
5 Electrification Administration or the Rural Utilities
6 Service under the Rural Electrification Act of 1936.

7 (42) The term “Secretary” means the Secretary
8 of Energy.

9 (43) The term “seller” means a retail electricity
10 distributor or a retail electricity supplier.

11 (44) The term “State” means any State, admit-
12 ted to the union, the District of Columbia, and any
13 organized territory of the United States.

14 (45) The term “State regulatory authority”
15 means the regulatory body of a State or municipality
16 having sole jurisdiction to regulate rates and charges
17 for the distribution of electricity to consumers within
18 the State or municipality.

19 (46) The term “subsidiary company” of a hold-
20 ing company means—

21 (A) any company 10 percent or more of
22 the outstanding voting securities of which are
23 directly or indirectly owned, controlled, or held
24 with power to vote, by such holding company;
25 and

1 (B) any person the management or policies
2 of which the Securities and Exchange Commis-
3 sion, after notice and opportunity for hearing,
4 determines to be subject to a controlling influ-
5 ence, directly or indirectly, by such holding
6 company (either alone or pursuant to an ar-
7 rangement or understanding with one or more
8 other persons) so as to make it necessary for
9 the protection of consumers that such person be
10 subject to the obligations, duties, and liabilities
11 imposed upon subsidiary companies of public
12 utility holding companies.

13 (47) The term “supplier” means a retail elec-
14 tricity supplier.

15 (48) The term “transmission company” means
16 any company that owns or operates facilities used to
17 transmit electricity, but does not include distribution
18 facilities as determined by the Commission.

19 (49) The term “transmission system” means all
20 facilities, including federally owned facilities, trans-
21 mitting electricity in interstate commerce in a par-
22 ticular region, including all facilities transmitting
23 electricity in the State of Texas and those providing
24 international interconnections, but does not include

1 local distribution facilities as determined by the
2 Commission.

3 (50) The term “universal service” means any
4 State or Federal program that ensures safe, afford-
5 able, and reliable access to retail electricity services
6 by any consumer regardless of age, race, creed,
7 color, national origin, ancestry, sex, marital status,
8 sexual orientation, lawful source of income, amount
9 of income, disability, or familial status or location of
10 domicile or business, or whether the consumer is lo-
11 cated in an economically distressed geographic area.

12 (51) The term “wholesale electricity” means
13 electricity and ancillary services sold for resale.

14 (52) The term “wholesale electricity supplier”
15 means any person that sells wholesale electricity.

16 (53) The term “voting security” means any se-
17 curity presently entitling the owner or holder thereof
18 to vote in the direction or management of the affairs
19 of a company.

20 **SEC. 4. SEVERABILITY.**

21 If any provision of this Act, or the application of such
22 provision to any person or circumstance, shall be held in-
23 valid, the remainder of the Act, and the application of
24 such provision to persons or circumstances other than

1 those as to which it is held invalid, shall not be affected
2 thereby.

3 **SEC. 5. ENFORCEMENT.**

4 (a) IN GENERAL.—If any individual or corporation
5 or any other retail electricity distributor or supplier fails
6 to comply with the requirements of this Act, any aggrieved
7 person may bring an action against such entity to enforce
8 the requirements of this Act in the appropriate Federal
9 district court.

10 (b) COURT ACTION.—Notwithstanding any other pro-
11 vision of law, any person seeking redress from an order,
12 rule, or other action taken pursuant to the Act by the
13 Commission, or any other Federal agency, or a regulatory
14 board created by this Act may file a petition for review
15 of such order, rule, or other action within 30 days in the
16 United States Court of Appeals where such person resides
17 or in the United States Court of Appeals for the District
18 of Columbia circuit.

19 (c) STATE LAW.—Notwithstanding any other provi-
20 sion of law, any person seeking redress from an order,
21 rule, or other action taken pursuant to the Act by a State
22 agency may appeal the order, rule, or other action in ac-
23 cordance with State law.

1 **TITLE I—FEDERAL STANDARDS**
2 **FOR ELECTRICITY SERVICE**

3 **SEC. 101. WORKER PROTECTIONS.**

4 (a) IN GENERAL.—Workers of companies that in-
5 stall, operate, and maintain generation, transmission, or
6 distribution facilities, or any person or company that en-
7 ters into a contract to perform these functions, shall have
8 the requisite knowledge, skills, and competence to perform
9 these functions in a safe and responsible manner in order
10 to provide safe and reliable service. Given the critical ne-
11 cessity for trained and qualified personnel to operate all
12 segments of the electric utility industry, the provisions of
13 the 1994 National Skills Standards Act and title V of the
14 Goals 2000: Educate America Act shall take effect for all
15 electric utility workers within 180 days after the effective
16 date of this Act.

17 (b) GENERATING PLANTS.—All generating plants
18 shall be subject to State and Federal general industry re-
19 quirements as established by the Occupational Safety and
20 Health Administration and shall undergo periodic govern-
21 ment inspection.

22 (c) TRANSFER OF OWNERSHIP.—(1) In the event of
23 a sale, purchase, or any other transfer of ownership of
24 one or more divisions or business units, generating sta-
25 tions, and/or generating units of an electric utility, the

1 electric utility's contract and/or agreements with the ac-
2 quiring entity or persons shall require that the entity or
3 persons hire a sufficient number of nonsupervisory em-
4 ployees to operate and maintain the station, division or
5 unit by initially making offers of employment to the non-
6 supervisory workforce of the electric utility's division, busi-
7 ness unit, generating station or generating unit at no less
8 than the wage rates, and substantially equivalent fringe
9 benefits and terms and conditions of employment, that are
10 in effect at the time of transfer of ownership of said divi-
11 sion, business unit, generating station and/or generating
12 units; and said wage rates and substantially equivalent
13 fringe benefits and terms and conditions of employment
14 shall continue for at least 30 months from the time of
15 said transfer of ownership unless the parties mutually
16 agree to different terms and conditions of employment
17 within that 30-month period. If there is litigation concern-
18 ing the sale, or other transfer of ownership of the electric
19 utility's divisions, business units, generating station, or
20 generating units, the 30-month period will begin on the
21 date the acquiring entity or persons take control or man-
22 agement of the divisions, business units, generating sta-
23 tion or generating units of the electric utility.

24 (2) If a utility transfers ownership of one or more
25 divisions, business units, generating stations, and/or gen-

1 erating units of an electric utility to a majority-owned sub-
2 sidiary, that subsidiary shall continue to employ the util-
3 ity's employees who were employed by the utility at such
4 division, business unit, or generating station at the time
5 of the transfer under the same terms and conditions of
6 employment as those employees enjoyed at the time of the
7 transfer.

8 (3) If ownership of the subsidiary is subsequently
9 sold or transferred to a third party, the transition provi-
10 sions of paragraph (1) shall apply.

11 (4) An electric utility company shall offer a transition
12 plan to those employees who are not offered jobs by the
13 acquiring entity if that entity has a need for fewer work-
14 ers.

15 **SEC. 102. CONSUMER PRIVACY.**

16 (a) **IN GENERAL.**—A consumer shall have a right to
17 the privacy of billing, payment, and specific usage and ap-
18 pliance information that is obtained by the seller in the
19 normal course of business.

20 (b) **CUSTOMER-SPECIFIC INFORMATION.**—A seller
21 shall obtain the permission of the consumer in writing be-
22 fore releasing customer-specific information. A customer's
23 permission cannot be provided with a clause in a contract
24 for the sale of electricity. Permission can only be obtained
25 in writing on a separate document. Any form provided to

1 the consumer to grant permission for the release of cus-
2 tomer-specific information must clearly specify the type of
3 recipient, the category of information proposed to be re-
4 leased, and how the consumer can rescind this permission
5 at any time.

6 (c) RESCISSION.—A consumer may rescind pre-
7 viously-granted permission at any time in writing to the
8 person who solicited the permission. A rescission is effec-
9 tive no later than three business days after the consumer
10 deposits it in the United States mail.

11 (d) GENERAL INFORMATION.—A seller may at any
12 time release generic information about a customer class
13 or its customers in general, such as load and usage data,
14 appliance penetration, demographic information, and pay-
15 ment experience. Generic customer information shall not
16 be released without permission of the affected customers
17 when the information concerns a customer class or group
18 of customers that is small enough to reveal the probable
19 usage, billing, or payment behavior of individual members
20 of the customer group or class. There shall be a rebuttable
21 presumption that a customer class or group with three or
22 fewer members meets this criteria. Furthermore, no seller
23 shall sell or release information within its possession that
24 would, if used as a basis to grant credit, result in a credit

1 decision on a prohibited basis set forth in the Federal
2 Equal Credit Opportunity Act (15 U.S.C. 1691 et seq.).

3 (e) CUSTOMER NAMES AND ADDRESSES.—A dis-
4 tributor shall make available a list of its current customer
5 names and mailing addresses to any supplier upon request
6 and for a reasonable fee. The revenues received by a dis-
7 tributor for the sale of this information shall be included
8 in the determination of the distributor’s revenue require-
9 ment. The State regulatory authority may impute reve-
10 nues to the distributor to reflect the market value of the
11 information sold or provided to any supplier.

12 (f) LAW ENFORCEMENT.—Federal or State authori-
13 ties or any law enforcement agency may have access to
14 individual customer records without the permission of the
15 customer as necessary to conduct its regulatory duties and
16 supervise sellers for compliance with Federal and State
17 law and this Act. Federal or State authorities or any law
18 enforcement agency shall retain any such records in its
19 files as confidential and such records shall not be consid-
20 ered available to the public under any “right to know”
21 or disclosure law without the written consent of the cus-
22 tomer.

23 (g) CREDIT HISTORY.—A seller may release a cus-
24 tomer’s credit history to a third party in an attempt to
25 collect an unpaid debt or to report on the customer’s pay-

1 ment history to a credit reporting agency under the terms
2 of applicable State and Federal law.

3 **SEC. 103. PAYMENT PLANS.**

4 All distributors and suppliers shall make available de-
5 ferred payment plans and equal monthly budget billing
6 plans.

7 **SEC. 104. BILLS.**

8 (a) IN GENERAL.—A bill issued by a retail electricity
9 distributor or supplier shall contain the following informa-
10 tion in a format understandable by the average customer:

11 (1) The identity of the person issuing the bill,
12 and if the bill is issued by a retail electricity dis-
13 tributor under contract with a supplier, the identity
14 of the supplier, respective addresses, and telephone
15 numbers where the customer can call or write with
16 inquiries.

17 (2) The type of meter in use by the customer,
18 the meter reading from the last bill, the current
19 meter reading, and the total kilowatt-hours used by
20 the customer for the billing period.

21 (3) If the bill is based on an estimated reading,
22 a conspicuous disclosure of this fact.

23 (4) Any additional services or products provided
24 since the issuance of the last bill.

1 (5) The nature of the service being offered, in-
2 cluding information about interruptibility or curtail-
3 ment of service.

4 (6) The variable price (in dollars per kilowatt-
5 hour, as appropriate) and the fixed price (in dollars,
6 as appropriate) of electricity, transmission services,
7 distribution services, taxes; any charges, fees or pen-
8 alties, and the price for other products or services
9 bought by or provided to the customer, all stated in
10 a manner that allows the customer to recalculate the
11 entire bill amount.

12 (7) A clear and understandable description of
13 all charges associated with the service being offered,
14 including access charges, back-up service charges,
15 and customer service charges, except that all dis-
16 tributors shall not itemize any program or charge in-
17 cluded in the rates for services provided by or in-
18 cluded in the rates of the distributor other than
19 those specifically authorized by the State authority
20 that regulates a distributor's terms and conditions.
21 This itemization shall not include the costs of any
22 public benefit program authorized by any Federal or
23 State authority.

1 (8) Every supplier shall, on at least a monthly
2 basis, provide in billing inserts the following infor-
3 mation, in a clearly legible manner.

4 (A) a breakdown, on a percentage basis, of
5 the known sources of electricity sold or other-
6 wise supplied to the consumer. This breakdown
7 shall provide percentages of biomass power,
8 coal-fired power, hydropower, natural gas fired
9 power, nuclear power, oil-fired power, solar
10 power, wind power, power from municipal waste
11 incinerators, other resources, and unknown re-
12 sources purchased from other companies respec-
13 tively. When a supplier has obtained electricity
14 from a power pool, this fact shall be disclosed,
15 and the supplier shall disclose the generic cat-
16 egories (with percentages where applicable) of
17 power dispatched by the pool during the pre-
18 vious billing cycle—

19 (i) the percentage used shall be
20 rounded to the nearest whole number; and

21 (ii) any source of electricity in para-
22 graph (8)(A) that is not used shall be list-
23 ed in the table and depicted as “0 per-
24 cent”.

1 (B) A pie-chart, which graphically depicts
2 the information in paragraph (8)(A), shall also
3 be provided—

4 (i) any source of electricity in para-
5 graph (8)(A) that is not used shall be list-
6 ed next to the pie-chart; and

7 (ii) each segment in the pie-chart
8 shall be depicted in the following colors:
9 biomass power—light brown; coal-fired
10 power—black; hydropower—blue; natural
11 gas-fired power—grey; nuclear power—red;
12 oil-fired power—dark brown; power from
13 municipal waste incinerators—orange;
14 solar power—yellow; wind power—green;
15 and other resources—white.

16 (C) A table shall be provided which depicts
17 the actual emissions of particulate matter be-
18 tween 10 micrometers and 2.5 micrometers in
19 diameter, particulate matter 2.5 micrometers or
20 less in diameter, carbon dioxide, nitrogen ox-
21 ides, sulfur dioxide, mercury, and high-level and
22 low-level nuclear waste attributable to the
23 sources of electricity identified in paragraph
24 (8)(A). The table shall also show the theoretical
25 emissions of such pollutants attributable to the

1 sources of electricity identified in paragraph
2 (8)(A), based on application of the Generation
3 Pollution Standards defined in subsection
4 112(c). The table shall also show the word
5 “Good” if the actual emissions of such pollut-
6 ants are less than or equal to the theoretical
7 emissions, and the word “Bad” if the actual
8 emissions of such pollutants are greater than
9 the theoretical emissions—

10 (i) the particulate matter emissions,
11 carbon dioxide emissions, nitrogen oxides
12 emissions, and sulfur dioxide emissions
13 shall be stated in pounds;

14 (ii) the high-level nuclear waste shall
15 be stated in pounds and curies; and

16 (iii) the low-level nuclear waste shall
17 be stated in cubic feet and curies.

18 (9) A disclosure of the customer’s annual and
19 monthly usage for each of the previous 12 months
20 (or a shorter period for a customer who does not
21 have a 12-month history with the supplier). A dis-
22 tributor and supplier may coordinate this disclosure
23 to avoid duplication and enhance customer under-
24 standing.

1 (b) SERVICES OR PRODUCTS.—A seller may include
2 services or products on the customer’s bill other than for
3 the transmission, distribution and retail sale of electricity,
4 but any such service or product shall be clearly identified
5 and totaled separately from the sales of electricity.

6 (c) PENALTY.—The failure of a seller to accurately
7 disclose information as required by this section shall be
8 treated as a deceptive act in commerce under section 5
9 of the Federal Trade Commission Act (15 U.S.C. 45).

10 **SEC. 105. DISPUTE RESOLUTION.**

11 (a) IN GENERAL.—Each seller shall maintain a writ-
12 ten policy to govern the receipt, investigation, and resolu-
13 tion of customer inquiries and complaints. This policy
14 shall be available to any customer upon request, including
15 requests that occur by a consumer on a walk-in basis dur-
16 ing normal business hours. Each distributor shall main-
17 tain and make publicly available on a walk-in basis during
18 normal business hours the written policies of each seller
19 that in any way uses the distribution facilities of the dis-
20 tribution. At a minimum this policy must include a method
21 to track complaints by category and the retention of com-
22 plaint records for a period of at least one year.

23 (b) COMPLAINTS.—A consumer may initiate com-
24 plaints against the distributor or against any seller that
25 in any way uses the distribution facilities of the distributor

1 through a filing at the distributor's offices, or at the of-
2 fices of the seller, or at the offices of the State regulatory
3 authority. A consumer must be able to file a complaint
4 on a walk-in basis during normal business hours, in addi-
5 tion to any other complaint process established by the sell-
6 er or the State regulatory authority. If a seller has pro-
7 vided a good faith response to the customer and the cus-
8 tomer remains dissatisfied, the seller shall refer the cus-
9 tomer to the State regulatory authority's toll-free number
10 for customer complaints. For a three-business-day period
11 after the referral, the seller shall not take any adverse ac-
12 tion with respect to the customer's complaint. Upon re-
13 ceipt of any complaint from a customer who has attempted
14 to resolve the matter with the seller, the State authority
15 with jurisdiction shall promptly notify the seller who shall
16 take no further adverse action with respect to the disputed
17 amount prior to the State authority's decision on the com-
18 plaint. The State authority may investigate and take
19 whatever action it deems appropriate to resolve the com-
20 plaint, including setting the terms for application for serv-
21 ice, payment arrangement, billing error or dispute, allega-
22 tion of violation of these rules or other matters within the
23 jurisdiction of the State authority.

1 (c) DISCONNECTIONS.—There shall be no disconnec-
2 tions from service (distribution or supply) while a com-
3 plaint is pending.

4 (d) ARBITRATION.—There shall be no mandatory ar-
5 bitration of complaints.

6 (e) RIGHT TO DISPUTE RESOLUTION.—No customer
7 can be forced to pay a disputed bill in order to assert a
8 customer’s right to dispute resolution.

9 **SEC. 106. DISTRIBUTION SERVICE AND SUPPLY SERVICE**
10 **QUALITY STANDARDS.**

11 (a) REPORTS.—On a monthly basis each seller shall
12 submit reports to the appropriate State regulatory author-
13 ity and to the Energy Information Administration that de-
14 scribe, document, and measure the quantity, quality, and
15 prices for distribution service and supply service.

16 (b) INDEX.—The data reported in subsection (a)
17 shall be used to create an index that shall track the per-
18 formance of sellers in selected performance areas on an
19 annual basis. The index shall be designed to conform to
20 the following minimum requirements:

21 (1) The index shall track a distributor’s and
22 supplier’s performance in a range of service quality
23 and reliability services for electricity consumers, in-
24 cluding without limitation, rates and prices for elec-
25 tricity service for all customers, variable charges, ac-

1 cess charges, back-up service charges, customer serv-
2 ice charges, customer satisfaction surveys, business
3 office and phone center performance, repair and in-
4 stallation of new service, connection and disconnec-
5 tion of service, delivery of State or federally man-
6 dated programs, duration and frequency of outages,
7 storm response, customer complaint ratio, accuracy
8 of meter readings and bills, as well as compliance
9 with specific service quality and credit and collection
10 rules applicable to both residential and business cus-
11 tomers.

12 (2) In addition to items specifically mentioned
13 in this Act, the National Association of State Utility
14 Consumer Advocates, the National Association of
15 Regulatory Utility Commissioners, and the Energy
16 Information Administration shall determine the spe-
17 cific items to be measured and reported by distribu-
18 tors and suppliers, with input by other government
19 and nongovernment organizations as needed.

20 (3) The index shall specify the source and re-
21 porting format of the data to be used by the dis-
22 tributors and suppliers in their filings with State
23 regulatory authorities and the Energy Information
24 Administration, and the State regulatory authorities
25 or the Energy Information Administration may

1 audit the data provided by the distributors or suppli-
2 ers at the expense of the distributor or the supplier.

3 (4) The index shall track the performance of
4 the sellers in selected performance areas on an an-
5 nual basis in comparison to a baseline performance
6 level that shall be set to reflect either recent histori-
7 cal performance of the seller, taking into account a
8 reasonable margin of error, or at a higher perform-
9 ance level if a State regulatory authority determines
10 that the seller's recent historical performance is not
11 adequate. If the seller has not maintained historical
12 data sufficient to establish a baseline for a particu-
13 lar performance area and a State regulatory author-
14 ity determines that the performance area should be
15 measured, the State regulatory authority may au-
16 thorize the use of recent data from comparable sell-
17 ers.

18 (5) Each item in the index shall be worth an
19 equal number of points. Performance for one item
20 shall not offset performance in any other item in the
21 index. If the seller's annual performance is equal to
22 or better than the baseline performance level, the
23 maximum number of points for that item shall be
24 awarded. If the seller's performance is below the
25 level established as the baseline, a percentage of the

1 maximum points shall be awarded equal to the per-
2 centage deterioration in performance reported by the
3 seller. In other words, if the seller performs at 80
4 percent of the baseline performance level, 80 percent
5 of the maximum points will be awarded for that
6 item.

7 (6) A specific measurement shall be adopted to
8 assure the seller fulfills its Universal Service obliga-
9 tions. A distributor shall annually survey the ability
10 of its customers to afford electric service. The survey
11 shall specifically target customers with annual
12 household income of 150 percent of Federal poverty
13 guidelines or less but may also target higher income
14 households as well. The survey shall obtain data on
15 the affordability of electric service by measuring the
16 impact of low, average, and high use customers at
17 0–50 percent, 51–100 percent, and 101–150 percent
18 of Federal poverty guidelines, using the average
19 price charged for basic service during the 12-month
20 period prior to the survey. The distributor shall re-
21 port the results of this survey to the State regu-
22 latory authority and to the Energy Information Ad-
23 ministration, both of which will make them available
24 for free to the general public. When the results of
25 the survey indicate that one or more groups of cus-

1 tomers with income of 150 percent of Federal pov-
2 erty guidelines or less pay, on average, over ten per-
3 cent of their annual income for electricity (15 per-
4 cent if the household uses electricity as the primary
5 heating source), the distributor shall expand or initi-
6 ate programs to assist the affected customer classes
7 in the payment of their electric bill, to reduce the
8 amount of the bill with energy efficiency programs,
9 or both.

10 (c) PENALTY.—A penalty shall be established for dis-
11 tributors that fail to achieve the baseline performance level
12 in any year with a dollar amount specified for each point
13 in the index that is below the baseline performance level.
14 The maximum penalty shall be determined by the State
15 regulatory authority after taking into account the recent
16 history of the distributor in achieving reasonable service
17 quality and reliability. The dollar amount of penalty in any
18 one year may vary with the degree of deterioration of per-
19 formance by the distributor, but the entire penalty shall
20 be assessed if the distributor's performance in any one
21 year shows a 30 percent deterioration in performance in
22 the overall index. A distributor shall not be awarded in-
23 creased earnings for performance above the baseline level
24 in any item.

1 (d) CREDIT OR REBATE.—Any penalties incurred
2 under the index may be returned to all customers in the
3 form of a one-time credit or rebate or paid to customers
4 affected by the degradation of service, such as a failure
5 to install new service on time, or both. In either case, in
6 any year in which penalties are triggered, the distributor
7 shall inform its customers of its failure to achieve the
8 baseline level of service quality in a manner approved by
9 the State regulatory authority.

10 (e) REPORT.—Annually the Energy Information Ad-
11 ministration shall make publicly available for free a report
12 (including all supporting documentation) showing the
13 scores of each retail electricity distributor and each retail
14 electricity supplier for every item measured by the index.
15 The report and all supporting data and documentation
16 must be posted on the Internet for free downloading in
17 a form usable with off-the-shelf spreadsheet and database
18 software.

19 **SEC. 107. CITIZEN UTILITY BOARDS.**

20 (a) ESTABLISHMENT.—Unless already in existence,
21 each State shall create a not-for-profit membership cor-
22 poration to be known as the “Citizens’ Utility Board,
23 Inc.” herein referred to as the State CUB. An existing
24 not-for-profit membership corporation located in a State

1 may become the State CUB provided it meets all the re-
2 quirements of this section.

3 (b) MEMBERSHIP.—The membership of the State
4 CUB shall consist of all residential consumers of elec-
5 tricity or natural gas 16 years of age or older who have
6 contributed to the State CUB an annual membership fee,
7 provided, that any person may resign from membership.

8 (c) DUTIES, RIGHTS AND POWERS OF THE STATE
9 CUB.—(1) The State CUB shall—

10 (A) represent and promote the interests of a
11 State’s residential consumers of electricity or natural
12 gas. All actions by the State CUB under this section
13 shall be directed toward such duty;

14 (B) inform, insofar as possible, all residential
15 consumers of electricity or natural gas about the
16 State CUB including the procedure for obtaining
17 membership in the State CUB;

18 (C) establish an annual membership fee which
19 shall be set at a level that provides sufficient fund-
20 ing for the State CUB to effectively perform its
21 powers and duties, and is affordable for as many
22 electricity or natural gas consumers as is possible,
23 but nevertheless is not less than five dollars; and

24 (D) have all rights and powers accorded gen-
25 erally to, and be subject to all duties imposed gen-

1 erally upon, not-for-profit membership corporations
2 under the laws of a State.

3 (2) In addition, the State CUB shall have the follow-
4 ing rights and powers:

5 (A) To solicit and accept gifts, loans, grants or
6 other aid in order to support activities concerning
7 the interests of residential consumers of electricity
8 or natural gas, except that the State CUB may not
9 accept gifts, loans or other aid from any person or
10 company that generates, transmits, distributes, or
11 supplies electricity or natural gas, or from any direc-
12 tor, employee or agent or member of the immediate
13 family of a director, employee or agent of any com-
14 pany that generates, transmits, distributes, or sup-
15 plies electricity or natural gas.

16 (B) To seek tax-exempt status under State and
17 Federal law.

18 (C) To conduct, support, and assist research,
19 surveys, investigations, planning activities, con-
20 ferences, demonstration projects, and public infor-
21 mation activities concerning the interests of residen-
22 tial consumers of electricity or natural gas. The
23 State CUB may accept grants, contributions, and
24 legislative appropriations for such activities.

1 (D) To contract for services which cannot rea-
2 sonably be performed by its employees.

3 (E) To represent the interests of residential
4 consumers of electricity or natural gas before regu-
5 latory agencies, legislative bodies and other public
6 bodies.

7 (F) To initiate, to intervene as a party, to
8 maintain, or to otherwise participate on behalf of
9 residential consumers of electricity or natural gas in
10 any proceeding that affects the interests of residen-
11 tial consumers of electricity or natural gas.

12 (G) To support or oppose ballot propositions
13 concerning matters that it determines may affect the
14 interests of residential consumers of electricity or
15 natural gas.

16 (3) The State CUB shall have, in addition to the
17 rights and powers enumerated in this section, such other
18 incidental rights and powers as are reasonably necessary
19 for the effective representation and protection of the inter-
20 ests of residential consumers of electricity or natural gas.

21 (4) The State CUB shall not sponsor, endorse, or
22 otherwise support, nor shall it oppose, any political party
23 or the candidacy of any person for public office.

24 (d) STATE-ASSISTED FUNDRAISING BY THE STATE
25 CUB.—(1) The State CUB shall have the authority to

1 prepare and furnish to any State agency an enclosure that
2 the State agency shall include within any mailing des-
3 ignated by the State CUB. The State CUB shall provide
4 the agency with any such enclosure at a time reasonably
5 in advance of the mailing. The State CUB may not require
6 any State agency to mail an enclosure more than four
7 times in any calendar year.

8 (2) Enclosures furnished by the State CUB under
9 this section shall be limited to soliciting information and
10 money from consumers and explaining—

11 (A) the purpose, history, nature, activities, and
12 achievements of the State CUB;

13 (B) that the State CUB is open to membership
14 by residential consumers;

15 (C) that the State CUB is not connected to any
16 utility company or governmental agency;

17 (D) that the State CUB is a not-for-profit cor-
18 poration directed by its consumer members;

19 (E) the procedure for contributing to or becom-
20 ing a member of the State CUB; and

21 (F) the yearly membership fee.

22 (3) Prior to furnishing an enclosure to a State agency
23 for mailing, the State CUB shall seek and obtain the ap-
24 proval of the appropriate State authority of the content

1 of the enclosure. The State authority shall approve the en-
2 closure if it determines that the enclosure—

3 (A) is not false or misleading, and

4 (B) contains and is limited to the information
5 permitted by this section. The State authority shall
6 be deemed to have approved the enclosure unless it
7 disapproves the enclosure within fourteen days of re-
8 ceipt.

9 (4) The State CUB shall reimburse each State agen-
10 cy for all reasonable incremental costs incurred by the
11 State agency in complying with this section above the
12 agency's normal mailing and handling costs, provided
13 that—

14 (A) the State agency shall first furnish the
15 State CUB with an itemized accounting of such ad-
16 ditional costs; and

17 (B) the State CUB shall not be required to re-
18 imburse the State agency for postage costs if the
19 weight of the State CUB's enclosure does not in-
20 crease the cost of the State agency mailing. If the
21 State CUB's enclosure increases the cost of the
22 State agency mailing, then it will be required to re-
23 imburse the State agency for postage cost over and
24 above what the agency's postage cost would have
25 been without the State CUB's enclosure.

1 **SEC. 108. OFFICE OF CONSUMER COUNSEL.**

2 The Federal Power Act is hereby amended by adding
3 the following new section after section 320:

4 **“SEC. 320A. OFFICE OF CONSUMER COUNSEL.**

5 “(a) ESTABLISHMENT.—There is hereby established
6 within the Federal Energy Regulatory Commission an Of-
7 fice of the Consumer Counsel. The Office shall be under
8 the direction and supervision of the Consumer Counsel.
9 The Consumer Counsel shall be appointed by the Commis-
10 sion for a term of not less than 5 years, which term may
11 be renewed at the discretion of the Commission.

12 “(b) FINDINGS.—There is authorized to be appro-
13 priated in each fiscal year to the Office of Consumer
14 Counsel \$10,000,000, adjusted for inflation.

15 “(c) STAFFING.—Staffing for the Office of Consumer
16 Counsel may include attorneys, economists, utility ana-
17 lysts, engineers, human services experts, and other staff,
18 professional and nonprofessional, and may include consult-
19 ants to provide advice, analysis, testimony, and represen-
20 tation of the Consumer Counsel before the Commission.

21 “(d) DUTIES.—The Consumer Counsel shall rep-
22 resent the energy using and consuming public in proceed-
23 ings before the Commission that may affect wholesale or
24 retail electric or gas service, prices, and practices. The
25 Consumer Counsel may intervene in any proceeding under
26 this Act.

1 “(e) **REPORTS.**—The Consumer Counsel shall annu-
2 ally report to the Commission and the Congress on the
3 impact of wholesale and retail deregulation in the elec-
4 tricity and gas industries on the using and consuming
5 public, and on affordable access to such services, and shall
6 make recommendations for policies to address such prob-
7 lems in these areas as the Consumer Counsel shall iden-
8 tify.

9 “(f) **REMOVAL.**—The Consumer Counsel may be re-
10 moved by the Commission for cause, after a hearing on
11 any allegations giving rise to such cause.”.

12 **SEC. 109. PROHIBITION OF POWER PLANT BAILOUTS.**

13 (a) **PROHIBITION.**—It shall be unlawful for any Fed-
14 eral or State authority to require consumers to subsidize,
15 directly or indirectly, the costs of owning or operating any
16 power plant owned by an investor-owned company.

17 (b) **EXEMPTION.**—Subsection (a) shall not apply to
18 any facility or power plant that qualifies for support from
19 the National Electric Public Benefit Fund or that pro-
20 duces renewable energy credits.

21 (c) **SAVINGS CLAUSE.**—Nothing in this section af-
22 fects the rights and remedies of any party with respect
23 to the purchase of electricity or capacity from or to a facil-
24 ity determined to be a qualifying small power production
25 facility or a qualifying cogeneration facility under section

1 210 of the Public Utility Regulatory Policies Act of 1978
2 pursuant to any contract or obligation to purchase or to
3 sell electricity or capacity, including the right to recover
4 the costs of purchasing such electricity or capacity.

5 (d) ESCROW.—On the effective date of this Act, every
6 investor-owned company that holds a license to operate a
7 nuclear reactor shall place in escrow \$1,000,000,000 per
8 reactor to cover costs for nuclear reactor decommissioning,
9 \$500,000,000 per reactor for low-level radioactive waste
10 disposal, and \$500,000,000 per reactor for high-level ra-
11 dioactive waste disposal.

12 **SEC. 110. PROHIBITION OF AFFILIATE ABUSES AND CROSS-**
13 **SUBSIDIES.**

14 It shall be unlawful for any State-regulated investor-
15 owned electric utility company, or associated holding com-
16 pany or any subsidiary thereof, to own directly or indi-
17 rectly any voting security of any company that provides
18 a nonregulated service, or that provides any type of service
19 outside the United States, or to provide any nonregulated
20 service.

21 **SEC. 111. MERGERS.**

22 (a) IN GENERAL.—No transactions subject to section
23 203 of the Federal Power Act shall be deemed to be con-
24 sistent with the public interest within the meaning of sec-
25 tion 203 if the Commission finds that the transaction may

1 create or maintain a situation inconsistent with the anti-
2 trust laws in any product and geographic market in which
3 electricity or capacity is offered for sale to wholesale or
4 retail customers in the form of—

- 5 (1) generation capacity;
- 6 (2) transmission capacity; or
- 7 (3) electricity.

8 (b) PROBABLE EFFICIENCIES.—Probable efficiencies,
9 including savings and benefits resulting from a merger,
10 will not be weighed against the effects of a merger that
11 may substantially lessen competition in any geographic
12 market for electricity if such efficiencies could be achieved
13 by means other than the merger.

14 (c) PLAN.—Any claim by applicants that a merger
15 will produce probable efficiencies, including benefits and
16 savings, must be supported by a plan accounting for such
17 efficiencies, and explaining how they will be allocated
18 among the merging utilities wholesale, retail, and trans-
19 mission customers.

20 (d) OPEN ACCESS.—No merger of transmission-own-
21 ing public utilities or disposition of transmission facilities
22 shall be deemed to be consistent with the public interest
23 within the meaning of section 203 of the Federal Power
24 Act, unless the applicants agree to offer comparable open
25 access transmission with single system pricing.

1 (e) REDUCTION OF TRANSMISSION CAPACITY.—No
2 transaction subject to section 203 of the Federal Power
3 Act shall be deemed to be consistent with the public inter-
4 est within the meaning of section 203 if it would result
5 in a reduction of transmission capacity presently available
6 for use by transmission customers.

7 (f) AUTHORIZATION.—Section 203(a) of the Federal
8 Power Act is amended by inserting after the first sentence
9 the following: “It shall be unlawful for a holding company
10 in a holding company system that includes an electric util-
11 ity company to directly or indirectly purchase, acquire, or
12 take any security of any electric utility company or of a
13 holding company in a holding company system that in-
14 cludes an electric utility company, without first having se-
15 cured an order of the Commission authorizing it to do so.”

16 **SEC. 112. POLLUTION STANDARDS.**

17 (a) DEFINITIONS.—For purposes of this section:

18 (1) COVERED GENERATION FACILITY.—The
19 term “covered generation facility” means an electric
20 generation facility with a nameplate capacity of 15
21 megawatts or greater that uses a combustion device
22 or nuclear reactor to generate electricity for sale.

23 (2) COGENERATION.—The term “cogeneration”
24 means a process of simultaneously generating elec-
25 tricity and thermal energy in which a portion of the

1 energy value of fuel consumed is recovered as heat
2 that is used to meet heating or cooling loads outside
3 the generation facility.

4 (3) POLLUTANT.—The term “pollutant”
5 means—

6 (A) nitrogen oxides;

7 (B) sulfur dioxide;

8 (C) carbon dioxide;

9 (D) mercury;

10 (E) high-level nuclear waste;

11 (F) low-level nuclear waste; or

12 (G) any other substance that the Adminis-
13 trator may identify by regulation as a substance
14 the emission of which into the air from a com-
15 bustion device or nuclear reactor used in the
16 generation of electricity endangers public health
17 or welfare.

18 (b) NATIONWIDE POLLUTION STANDARDS.—

19 (1) SCHEDULE.—Not later than July 1, 1999,
20 the Administrator shall promulgate a final regula-
21 tion that establishes a schedule of limits on the
22 amount of each pollutant that all covered generation
23 facilities in the aggregate nationwide shall be per-
24 mitted to pollute in each calendar year beginning in
25 calendar year 2000.

1 (2) LIMIT.—The nationwide pollution standard
2 for calendar year 2005 and each year thereafter, un-
3 less otherwise specified, established under paragraph
4 (1) shall be not greater than the following:

5 (A) For nitrogen oxides, 1,660,000 tons.

6 (B) For sulfur dioxide, 3,580,000 tons.

7 (C) For carbon dioxide, 1,710,000,000
8 tons, decreasing each year after 2005 in equal
9 increments to 1,425,000,000 tons by 2010, de-
10 creasing each year after 2010 in equal incre-
11 ments to 380,000,000 tons by 2030.

12 (D) For mercury, the Administrator shall
13 determine a standard that allows for the elimi-
14 nation of mercury emissions by 2010.

15 (E) For high-level waste, the Adminis-
16 trator shall determine a standard that allows
17 for the reduction of the production of radiation
18 (in curies) by 5 percent from levels in 2000,
19 and 2 percent for each year after 2005 radi-
20 ation.

21 (F) For low-level nuclear waste, the Ad-
22 ministrators shall determine a standard that al-
23 lows for the reduction of the production of radi-
24 ation (in curies) by 25 percent from levels in
25 2000, and 5 percent for each year after 2005.

1 (3) ADJUSTMENT.—The Administrator may ad-
2 just the schedule established under paragraph (1),
3 within the limits established by paragraph (2), if the
4 Administrator determines that an adjustment would
5 be in the best interests of the public health and wel-
6 fare.

7 (c) GENERATION POLLUTION STANDARD.—

8 (1) ANNUAL DETERMINATION.—

9 (A) IN GENERAL.—Not later than October
10 1 of each year, the Administrator, in consulta-
11 tion with the Commission, shall determine the
12 generation pollution standard for nitrogen ox-
13 ides, sulfur dioxide, carbon dioxide, and mer-
14 cury pollution in pounds per kilowatt-hour of
15 electric production by covered generation facili-
16 ties for the next calendar year; and high-level
17 nuclear waste in pounds per kilowatt-hour and
18 curies per kilowatt-hour and low-level nuclear
19 waste in cubic feet per kilowatt-hour and curies
20 per kilowatt-hour of electric production by cov-
21 ered generation facilities for the next calendar
22 year.

23 (B) METHOD.—The Administrator shall
24 determine by regulation the method to be used

1 in determining an estimate under subparagraph
2 (A).

3 (2) FORMULA.—The generation pollution stand-
4 ard shall be determined by dividing the annual na-
5 tionwide pollution standard as established under
6 subsection (b) by the Administrator’s estimate of the
7 nationwide kilowatt-hour production for the next cal-
8 endar year by all covered generation facilities.

9 (d) INDIVIDUAL POLLUTION ALLOCATION.—Only
10 covered generation facilities that emit a pollutant shall re-
11 ceive an allocation for that pollutant, and such allocation
12 shall be equal to—

13 (1) the facility’s annual generation of kilowatt-
14 hours of electricity multiplied by the generation pol-
15 lution standard as established in subsection (c); plus

16 (2) the facility’s annual generation of thermal
17 energy used to meet heating and cooling loads re-
18 sulting from the cogeneration process, which shall be
19 expressed by the Administrator in units of measure-
20 ment that provide a reasonable comparison between
21 energy generated in the form of electricity and en-
22 ergy generated in the form of thermal energy and
23 then multiplied by the generation pollution standard
24 as established under subsection (c).

25 (f) MONITORING.—

1 (1) ESTABLISHMENT OF SYSTEM.—The Admin-
2 istrator shall establish a system for the accurate
3 monitoring of the amount of each pollutant that a
4 covered generation facility emits during a year.

5 (2) REQUIREMENTS.—The monitoring system
6 under paragraph (1) shall require—

7 (A) installation on each combustion device
8 of a continuous monitoring system for each pol-
9 lutant; or

10 (B) use of an alternative mechanism that
11 the Administrator determines will provide data
12 with precision, reliability, accessibility, and
13 timeliness that are equal to or greater than
14 those that would be achieved by a continuous
15 emissions monitoring system.

16 (g) POWERS.—The Administrator may promulgate
17 such regulations, conduct such investigations, and take
18 such other actions as are necessary to appropriate to im-
19 plement and obtain compliance with this section and regu-
20 lations promulgated under this section.

21 **SEC. 113. NATIONAL ELECTRIC PUBLIC BENEFIT BOARD.**

22 (a) ESTABLISHMENT.—The Secretary shall establish
23 a National Electric Public Benefit Board to carry out the
24 functions and responsibilities described in this section and
25 in section 114.

1 (b) MEMBERSHIP.—The Board shall be composed
2 of—

3 (1) 1 representative of the Commission ap-
4 pointed by the Commission;

5 (2) 1 representative of the Secretary appointed
6 by the Secretary;

7 (3) 1 representative appointed by the Secretary
8 of the Department of Health and Human Services;

9 (4) 1 representative appointed by the Adminis-
10 trator of the Rural Utilities Service of the Depart-
11 ment of Agriculture;

12 (5) 1 representative appointed by the Secretary
13 of the Department of Housing and Urban Develop-
14 ment;

15 (6) 1 representative appointed by the Secretary
16 of the Department of Labor.

17 (7) 1 person nominated by the national organi-
18 zation representing State regulatory commissioners
19 and appointed by the Secretary;

20 (8) 1 person nominated by the national organi-
21 zation representing State utility consumer advocates
22 and appointed by the Secretary;

23 (9) 1 person nominated by the national organi-
24 zation representing State energy offices and ap-
25 pointed by the Secretary;

1 (10) 1 person nominated by the national orga-
2 nization representing energy assistance directors and
3 appointed by the Secretary; and

4 (11) 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 a public benefits manager for a term
12 of not more than 3 years, which term may be re-
13 newed 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 subsection 5(b); and

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

4 **SEC. 114. NATIONAL ELECTRIC PUBLIC BENEFIT FUND.**

5 (a) ESTABLISHMENT.—

6 (1) IN GENERAL.—The Board shall establish an
7 account or accounts at 1 or more financial institu-
8 tions, which account or accounts shall be known as
9 the “National Electric Public Benefit Fund”, con-
10 sisting of amounts deposited in the fund under sub-
11 section (c).

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

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

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

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

23 (b) USE OF FUND.—

24 (1) FUNDING OF UNIVERSAL ELECTRIC SERV-
25 ICE.—One third of the amount in the Fund shall be

1 used by the Board to provide funds to States for
2 the support of affordable electric service for low and
3 moderate income residential customers.

4 (2) FUNDING OF OTHER PUBLIC PURPOSE PRO-
5 GRAMS.—The balance of the amounts in the Fund
6 shall be used by the Board to provide matching
7 funds to States for the support of State public pur-
8 pose programs relating to—

9 (A) the impacts on employees and their
10 communities of any necessary reductions in the
11 utility workforce directly caused by electricity
12 deregulation. These impacts shall be mitigated
13 to the extent practicable through such means as
14 offers of voluntary severance, job retraining,
15 early retirement, continued health care, out-
16 placement and related benefits;

17 (B) renewable energy sources;

18 (C) energy conservation and efficiency; or

19 (D) research and development in areas de-
20 scribed in subparagraphs (B) and (C).

21 (3) DISTRIBUTION.—

22 (A) IN GENERAL.—Except for amounts
23 needed to pay costs of the Board in carrying
24 out its duties under this section, the Board
25 shall instruct the manager of the Fund to dis-

1 tribute all amounts in the Fund to States to
2 fund public purpose programs under para-
3 graphs (1) and (2).

4 (B) FUND SHARE; UNIVERSAL ELECTRIC
5 SERVICE PROGRAMS.—Funds for public purpose
6 programs funded under paragraph (1) shall be
7 distributed to the States in proportion to the
8 State’s relative share of the Nation’s aggregate
9 annual consumption of electricity by low- and
10 moderate-income households.

11 (C) FUND SHARE; OTHER PUBLIC PUR-
12 POSE PROGRAMS.—

13 (i) IN GENERAL.—Subject to clause
14 (iii), the Fund share of a public purpose
15 program funded under paragraph (2) shall
16 be 50 percent.

17 (ii) PROPORTIONATE REDUCTION.—
18 To the extent that the amount of matching
19 funds requested by States for public pur-
20 pose programs funded under paragraph (2)
21 exceeds two-thirds of the maximum pro-
22 jected revenues of the Fund, the matching
23 funds distributed to the States shall be re-
24 duced by an amount that is proportionate
25 to each State’s annual consumption of elec-

1 tricity compared to the Nation's aggregate
2 annual consumption of electricity.

3 (iii) ADDITIONAL STATE FUNDING.—

4 A State may apply funds to public purpose
5 programs funded under paragraph (2) in
6 addition to the amount of funds applied for
7 the purpose of matching the Fund share.

8 (4) PROGRAM CRITERIA; UNIVERSAL ELECTRIC
9 SERVICE PROGRAMS.—

10 (A) ADVANCE FUNDING FOR CERTIFIED
11 PROGRAMS.—States that implement programs
12 conforming to the standards set forth in this
13 section shall be eligible for advance funding of
14 such programs. The Board shall annually cer-
15 tify to the Secretary the compliance of State
16 programs with this section. The Secretary shall
17 provide a mechanism to ensure that universal
18 electric service is provided to qualifying low-in-
19 come consumers in States that do not have a
20 State program or whose State program does not
21 qualify for funds under this section.

22 (B) UNIVERSAL ELECTRIC SERVICE PRO-
23 GRAM CRITERIA.—To be certified under this
24 section, State programs must contain the fol-
25 lowing provisions:

1 (i) Be designed and implemented to
2 reduce the basic electricity cost burden of
3 a State's low-income households to no
4 more than twice the burden of a national
5 average of non-low-income households.

6 (ii) Target benefits to the most vul-
7 nerable households.

8 (iii) Be available to all households
9 with annual incomes at or below 150 per-
10 cent of the Federal poverty guidelines, or
11 60 percent of the median State income,
12 but States may determine a higher income
13 level as the cutoff for eligibility.

14 (iv) Set aside no less than 30 percent
15 of annual program funding for energy con-
16 servation and education programs provid-
17 ing direct efficiency services to qualifying
18 low-income households.

19 (v) Reach the maximum eligible popu-
20 lation, using the most cost-effective out-
21 reach and intake techniques.

22 (vi) Encourage, rather than discour-
23 age, energy conservation, and the prompt
24 payment of bills.

1 (vii) Spend no more than 10 percent
2 of program funds on administration of the
3 program.

4 (viii) The program shall be coordi-
5 nated with the delivery of low-income en-
6 ergy assistance and weatherization pro-
7 grams administered by State and local
8 agencies, making use, to the fullest extent
9 practicable, of existing community-based
10 organizations who administer one or more
11 fuel assistance and energy efficiency pro-
12 grams.

13 (ix) On an annual basis hold a public
14 hearing on the design and implementation
15 of such Universal Electric Service pro-
16 gram.

17 (x) Provide intervenor funding to
18 allow low-income consumers the oppor-
19 tunity to participate in State or Federal
20 administrative proceedings establishing,
21 monitoring, and overseeing the State re-
22 structuring plan.

23 (5) PROGRAM CRITERIA; OTHER PUBLIC PUR-
24 POSE PROGRAMS.—The Board shall recommend eli-

1 gibility criteria for public benefit programs funded
2 under paragraph (2) for approval by the Secretary.

3 (6) APPLICATION.—Not later than August 1 of
4 each year beginning in 1999, a State seeking funds
5 under paragraph (1) or matching funds under para-
6 graph (2) for the following year shall file with the
7 Board, in such form as the Board may require, an
8 application—

9 (A) certifying that the funds will be used
10 for an eligible public purpose program; and
11 specifying what funds are requested and for
12 programs under which paragraph; and

13 (B) stating the amount of State funds ear-
14 marked for the programs, and to be used for
15 any required matching.

16 (c) WIRES CHARGE.—

17 (1) DETERMINATION OF NEEDED FUNDING.—
18 Not later than August 1 of each year, the Board
19 shall determine and inform the Commission of the
20 aggregate amount of wires charges that it will be
21 necessary to have paid into the Fund to pay match-
22 ing funds to States and pay the operating costs of
23 the Board in the following year.

24 (2) IMPOSITION OF WIRES CHARGE.—

1 (A) IN GENERAL.—Not later than Decem-
2 ber 15 of each year, the Commission shall im-
3 pose a nonbypassable wires charge to be paid
4 directly into the Fund by the operator of the
5 wire on electricity carried through the wire, this
6 electricity to be measured as it exits the busbar
7 at a generation facility, and which impacts on
8 interstate commerce.

9 (B) AMOUNT.—The wires charge shall be
10 set at a rate equal to the greater of—

11 (i) 7 mills per kilowatt-hour; or

12 (ii) a rate that is estimated to result
13 in the collection of an amount of wires
14 charges that is as nearly as possible equal
15 to the amount of needed funding deter-
16 mined under paragraph (1).

17 (3) DEPOSIT IN THE FUND.—The wires charge
18 shall be paid by the operator of the wire directly into
19 the Fund at the end of each month during the cal-
20 endar year for distribution by the public benefit
21 manager.

22 (4) PENALTIES.—The Commission shall assess
23 against a wire operator that fails to pay a wires
24 charge as required by this subsection a civil penalty

1 in an amount equal to triple the amount of the un-
2 paid wires charge.

3 (d) AUDITING.—

4 (1) IN GENERAL.—The Fund shall be audited
5 annually by a firm of independent certified public
6 accountants in accordance with generally accepted
7 auditing standards.

8 (2) ACCESS TO RECORDS.—Representatives of
9 the Secretary and the Commission shall have access
10 to all books, accounts, reports, files, and other
11 records pertaining to the Fund as necessary to fa-
12 cilitate and verify the audit.

13 (3) REPORTS.—

14 (A) IN GENERAL.—A report on each audit
15 shall be submitted to the Secretary, the Com-
16 mission, and the Secretary of the Treasury, who
17 shall submit the report to the President and
18 Congress not later than 180 days after the
19 close of the fiscal year.

20 (B) REQUIREMENTS.—An audit report
21 shall—

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

23 and

24 (ii) include—

1 (I) a statement of assets and li-
2 abilities, capital, and surplus or defi-
3 cit;

4 (II) a statement of surplus or
5 deficit analysis;

6 (III) a statement of income and
7 expenses;

8 (IV) any other information that
9 may be considered necessary to keep
10 the President and Congress informed
11 of the operations and financial condi-
12 tion of the Fund; and

13 (V) any recommendations with
14 respect to the Fund that the Sec-
15 retary or the Commission may have.

16 **SEC. 115. RENEWABLE ENERGY PORTFOLIO STANDARDS.**

17 (a) MINIMUM RENEWABLE GENERATION REQUIRE-
18 MENT.—(1) By March 22 of each calendar year after
19 2000, each retail electricity supplier shall submit to the
20 Secretary renewable energy credits in an amount equal to
21 the required annual percentage of the supplier's total kilo-
22 watt-hour sales to end-use customers in the preceding cal-
23 endar year.

24 (2) Nothing in this section shall be construed to pro-
25 hibit any State from requiring additional renewable energy

1 generation in that State under any program adopted by
 2 the State. A State may limit the benefits of any State re-
 3 newable energy program to renewable energy generators
 4 located within the State’s boundaries.

5 (b) **REQUIRED ANNUAL PERCENTAGE.**—For end-use
 6 customer sales in calendar year 2000, the required annual
 7 percentage for each retail electricity supplier shall be set
 8 equal to the amount of renewable energy in the United
 9 States as of December 1997, and shall be known as the
 10 “baseline.” The Secretary shall establish this baseline by
 11 rule based on an advance registration process for renew-
 12 able energy credits or by conducting a survey of renewable
 13 energy generation plants. Such baseline shall be estab-
 14 lished after notice and opportunity for hearing but not
 15 later than 180 days after the enactment of this Act.
 16 Thereafter the required annual percentage for each such
 17 supplier shall increase as set forth in the following table:

Calendar year:	Minimum Percentage Increase (cumulative):
2001	baseline plus 0.50%
2002	baseline plus 1.00%
2003	baseline plus 1.50%
2004	baseline plus 2.00%
2005	baseline plus 3.00%
2006	baseline plus 4.00%
2007	baseline plus 5.00%
2008	baseline plus 6.00%

Calendar year:	Minimum Percentage Increase (cumulative):
2009	baseline plus 7.00%
2010	baseline plus 8.00%
2011 and beyond	1.00% additional to the previous year

1 (c) SUBMISSION OF CREDITS.—An electric generator
2 may satisfy the requirements of subsection (a) through the
3 submission, by March 22 of the year following each cal-
4 endar year, of renewable energy credits issued by the Sec-
5 retary under this section for renewable energy generated
6 in such calendar year or the previous calendar year. A re-
7 newable energy credit that is submitted to the Secretary
8 may not be used for any other purposes thereafter.

9 (d) ISSUANCE OF RENEWABLE ENERGY CREDITS.—

10 (1) IN GENERAL.—The Secretary shall estab-
11 lish, by rule after notice and opportunity for hearing
12 but not later than 120 days after the enactment of
13 this Act, a program to issue renewable energy cred-
14 its to renewable energy electric generators that sell
15 electricity to any other person. Renewable energy
16 credits shall be identified by type of generation and
17 State where the generator is located. Under such
18 program, the Secretary shall issue one renewable en-
19 ergy credit to any person who generates and sells to

1 any other person one kilowatt-hour of renewable en-
2 ergy net of any on-site consumption.

3 (2) FEES.—The Secretary shall impose and col-
4 lect a fee on electric generators awarded renewable
5 energy credits in an amount equal to the reasonable
6 costs of administering the Renewables Portfolio
7 Standard program established under this section
8 which shall be due at the time such credits are
9 issued.

10 (3) PURPA CONTRACTS.—In the case of re-
11 newable energy sold by the renewable energy electric
12 generator at above-market rates to a State regulated
13 electric utility under a contract entered into before
14 the date of enactment of this Act that is subject to
15 section 210 of the Public Utility Regulatory Policies
16 Act of 1978, for the duration of such contract, the
17 utility shall be treated for purposes of the other pro-
18 visions of this section as the generator of such en-
19 ergy unless such generator and utility agree to ter-
20minate such contract prior to the expiration date set
21forth in the contract. The Secretary shall settle any
22disputes regarding the calculation of above-market
23rates as it pertains to this section.

24 (e) SALE OR EXCHANGE.—Renewable energy credits
25 may be sold or exchanged by the person to whom issued

1 or by any other person who acquires the credit. A renew-
2 able energy credit generated in any year that is not used
3 to satisfy the minimum renewable generation requirement
4 of subsection (a) for that year may be carried forward for
5 use in the following year, but may not be carried forward
6 for use in any subsequent year.

7 (f) RULES AND REGULATIONS.—(1) The Secretary
8 shall promulgate such rules and regulations as may be
9 necessary to carry out this section, including but not lim-
10 ited to such rules and regulations requiring the submission
11 of such information as may be necessary to verify renew-
12 able energy generation by persons applying for renewable
13 energy credits under subsection (d), total end-use cus-
14 tomer sales of any person submitting renewable energy
15 credits for compliance under subsection (a), and to vali-
16 date the renewable energy credits submitted by any person
17 to the Secretary.

18 (2) At the request of any State, the Secretary shall
19 develop administrative procedures and promulgate addi-
20 tional rules and regulations as necessary to facilitate joint
21 implementation of the national renewables portfolio stand-
22 ard and any renewables portfolio standard adopted by any
23 State pursuant to subsection (a)(2).

24 (g) ANNUAL REPORTS.—The Secretary shall gather
25 available data and devise measures to gauge compliance

1 with the requirements of this section and the success of
2 the Renewables Portfolio Standard program established
3 under this section. On an annual basis not later than May
4 31 of each year, the Secretary shall publish a report for
5 the previous year that includes compliance data, program
6 results, and steps taken to improve the program results.

7 (h) SUNSET.—The requirements of this section shall
8 cease to apply 90 days after the Secretary certifies in the
9 annual report under subsection (g) that for the preceding
10 year the market value of renewable energy credits or the
11 number of credits traded or both has declined to such
12 nominal levels that the administrative cost to implement
13 the program is no longer justified.

14 (i) ENFORCEMENT.—(1) The failure or refusal of any
15 person to submit any required quantity of renewable en-
16 ergy credits shall be subject to a civil penalty of 3 times
17 the estimated national average market value (as deter-
18 mined by the Secretary) for the calendar year concerned
19 of such quantity of renewable energy credits. Any such
20 penalty shall be due and payable without demand to the
21 Secretary as provided in regulations to be issued by the
22 Secretary pursuant to subsection (f). Any such payment
23 shall be deposited in the United States Treasury pursuant
24 to the Miscellaneous Receipts Act. Any penalty due and
25 payable under this section shall not diminish the liability

1 of the unit's owner or operator for any fine, penalty or
2 assessment against the unit for the same violation under
3 any other section of this Act.

4 (2) The Secretary shall bring an action in the appro-
5 priate United States district court to impose a civil penalty
6 on any person who fails or refuses to comply with sub-
7 section (a) or who fails to pay such penalty.

8 **SEC. 116. NET-METERING AND INTERCONNECTION STAND-**
9 **ARDS.**

10 The Public Utility Regulatory Policies Act of 1978
11 is amended by adding the following new section after sec-
12 tion 604:

13 **“SEC. 605. NET-METERING FOR RENEWABLE ENERGY.**

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

15 “(1) The term ‘eligible on-site generating facil-
16 ity’ means a facility on the site of an electric con-
17 sumer with a peak generating capacity of 2
18 megawatts or less that is fueled solely by a renew-
19 able energy resource.

20 “(2) The term ‘renewable energy resource’
21 means organic waste biomass (not including municipi-
22 pal solid waste of black liquor), dedicated biomass
23 energy crops, landfill gas, geothermal, solar, or wind
24 resources.

1 “(3) The term ‘net-metering service’ means a
2 service to an electricity consumer under which elec-
3 tricity generated by that consumer from an eligible
4 on-site generating facility and delivered to the dis-
5 tribution system through the same meter through
6 which purchased electricity is received may be used
7 to offset electricity provided by the retail electricity
8 supplier to the consumer during the applicable bill-
9 ing period so that a consumer is billed only for the
10 net electricity consumed during the billing period. If
11 the net electricity consumed is less than zero, then
12 the consumer shall be paid during the next billing
13 period the average spot market price for the elec-
14 tricity generated.

15 “(b) REQUIREMENT TO PROVIDE NET METERING
16 SERVICE.—Each retail electricity supplier shall make
17 available upon request net metering service to any retail
18 consumer whom the supplier currently serves or solicits
19 for service.

20 “(c) REQUIREMENT TO PROVIDE INTERCONNEC-
21 TION.—A retail electricity distributor shall permit the
22 interconnection to its distribution system of an on-site
23 generating facility if the facility meets the safety and
24 power quality standards established by the Commission.

1 “(d) RULES.—The Commission shall prescribe safety
2 and power quality standards and rules necessary to carry
3 out this section. These standards and rules apply to any
4 interconnections of an on-site generating facility with a
5 distribution system, regardless of the size of the facility
6 or the type of fuel used by the facility.”.

7 **SEC. 117. CIVIL LIABILITY.**

8 (a) LIABILITY.—A person who fails to abide by the
9 requirements of this Act with respect to any person is lia-
10 ble to such person in the amount of—

11 (1) any actual damage sustained by such person
12 as a result of such failure;

13 (2) an amount not less than \$100 nor more
14 than \$1,000 per violation; and

15 (3) in the case of any action to enforce this sec-
16 tion, the costs of the action, together with reason-
17 able attorneys fees as determined by the court.

18 (b) COURT ACTION.—Any action under this section
19 may be brought in any United States District Court, or
20 in any other court of competent jurisdiction, within three
21 years from the date of violation.

22 (c) ACTIONS TO ENFORCE.—An action to enforce
23 this Act may also be brought by any State Attorney Gen-
24 eral of any other agency responsible for its enforcement.

1 **TITLE II—STATE STANDARDS**
2 **FOR ELECTRICITY SERVICE**

3 **SEC. 201. RETAIL DEREGULATION.**

4 (a) **PRIOR DEREGULATION.**—If a State has enacted
5 laws or regulations to deregulate retail sales of electricity
6 prior to the effective date of this Act, a State shall meet
7 the requirements of sections 202 and 205 through 216
8 inclusive within 2 years after the effective date of this Act.

9 (b) **FUTURE DEREGULATION.**—For States that con-
10 tinue to regulate retail sales of electricity after the effec-
11 tive date of this Act, a State shall meet the requirements
12 of sections 202 and 205 through 216 inclusive before en-
13 acting laws or regulations that deregulate retail sales of
14 electricity.

15 **SEC. 202. PROHIBITION OF COST SHIFTING.**

16 (a) **RATES.**—No class of consumers in a State shall
17 be charged rates for transmission or distribution service
18 (or other regulated services) in excess of the class’s pro-
19 portional responsibility for the costs of providing these
20 services.

21 (b) **RATE DIFFERENTIAL.**—On an annual basis, each
22 State regulatory authority shall compute the rate differen-
23 tial for retail electric service between residential and in-
24 dustrial customers by comparing the total average residen-
25 tial rate and the total average industrial rate, based on

1 monthly reports by suppliers to the State regulatory au-
2 thority and the Energy Information Administration. As
3 used in this subsection, “total average residential rate”
4 means the total residential revenues divided by the total
5 residential kilowatt-hour sales; “total average industrial
6 rate” means the total industrial revenues divided by total
7 industrial kilowatt-hour sales; and “rate differential”
8 means the difference between the total average residential
9 rate and the total average industrial rate, divided by the
10 total average residential rate.

11 (c) **THREE PERCENT DIFFERENTIAL.**—If the State
12 regulatory authority determines that the rate differential
13 for electric service between residential and industrial cus-
14 tomers has increased by three percentage points or more
15 from the rate differential that existed on the day before
16 the State enacted laws or regulations to deregulate retail
17 sales of electricity, the State regulatory authority shall
18 order each distributor to increase the access charge per
19 kilowatt-hour to all industrial customers, and to reduce
20 the access charge per kilowatt-hour to all residential cus-
21 tomers, so that the rate differential remains within three
22 percentage points or less of the rate differential that ex-
23 isted on the day before the State enacted laws or regula-
24 tions to deregulate retail sales of electricity.

1 **SEC. 203. PROHIBITION OF AFFILIATE ABUSES AND CROSS-**
2 **SUBSIDIES.**

3 (a) TRANSFER OF ASSETS.—Within 1 year after a
4 State has enacted laws or regulations to deregulate retail
5 sales of electricity, the State’s investor-owned utilities
6 shall—

7 (1) transfer transmission assets to a regulated
8 transmission company; and

9 (2) transfer the distribution assets to a regu-
10 lated distribution company.

11 (b) DEFINITIONS.—For the purposes of this section,
12 the terms “transmission company” and “distribution com-
13 pany” mean transmission companies and distribution com-
14 panies created to comply with subsection (a).

15 (c) PROHIBITION.—It shall be unlawful for any per-
16 son who owns directly or indirectly any voting security of
17 any company that owns, operates, or leases generation fa-
18 cilities, or for any person who owns directly or indirectly
19 any voting security of any company that sells electricity
20 in wholesale or retail markets, to own directly or indirectly
21 any portion of a transmission company or a distribution
22 company.

23 (d) OFFICERS, DIRECTORS, EMPLOYEES.—It shall be
24 unlawful for any officer, director, or employee of a trans-
25 mission company or a distribution company to have any
26 affiliation with, or to own any security of any company,

1 or any associated company thereof, that owns, operates,
2 or leases generation facilities, or that sells electricity in
3 wholesale or retail markets.

4 (e) OWNERSHIP OF SECURITIES.—It shall be unlaw-
5 ful for any transmission company or any distribution com-
6 pany to own directly or indirectly any security of any other
7 company.

8 (f) LOANS.—It shall be unlawful for any transmission
9 company or any distribution company to borrow from any
10 company, or any associated or affiliated company thereof,
11 that owns, operates, or leases generation facilities, or that
12 sells electricity in wholesale or retail markets.

13 (g) LOANS FROM TRANSMISSION OR DISTRIBUTION
14 COMPANIES.—It shall be unlawful for any person to bor-
15 row from any transmission company or any distribution
16 company.

17 (h) SERVICE, SALES, OR CONSTRUCTION CON-
18 TRACTS.—It shall be unlawful for any transmission com-
19 pany or any distribution company to enter into any serv-
20 ice, sales, or construction contract with any company, or
21 any associated or affiliated company thereof, that owns,
22 operates, or leases generation facilities, except for the pro-
23 vision of generation services that allow for the safe, reli-
24 able, and economical operation of a transmission system

1 or a distribution system as determined through the use
2 of the principles of distributed resources.

3 (i) USE OF NAMES, ETC.—It shall be unlawful for
4 any transmission company or any distribution company to
5 use, or to resemble in anyway, the name, logo, service
6 mark, trademark, or trade name of any company, or any
7 associated company thereof, that owns, operates, or leases
8 generation facilities, or that sells electricity in wholesale
9 or retail markets.

10 (j) ADDITIONAL PROHIBITIONS.—An investor-owned
11 electric utility, a transmission company, and a distribution
12 company—

13 (1) may not discriminate against any other per-
14 son or company in the provision of goods, services,
15 facilities, and information, or in the establishment of
16 standards;

17 (2) shall provide all goods, services, facilities, or
18 information, including marketing leads, to all other
19 persons on reasonable and nondiscriminatory terms
20 and conditions; and

21 (3) shall not provide, transfer, or permit the
22 use of, or access to, tangible or intangible assets of
23 the investor-owned electric utility, transmission com-
24 pany, or distribution company.

1 **SEC. 204. PROHIBITION OF EXCESSIVE GENERATION MAR-**
2 **KET POWER.**

3 (a) IN GENERAL.—Within 1 year after a State has
4 enacted laws or regulations to deregulate retail sales of
5 electricity, it shall be unlawful for any investor-owned gen-
6 eration company, or associated holding company or sub-
7 sidiary thereof, or an affiliated company, to own, operate,
8 lease, or otherwise control more than 20 percent of the
9 State’s power plants within the following categories:

10 (1) Baseload power plants, defined as power
11 plants with a capacity factor greater than or equal
12 to 50 percent.

13 (2) Peaking power plants; defined as power
14 plants with a capacity factor less than 50 percent.

15 (3) Power plants that primarily provide ancil-
16 lary services, including without limitation, load-fol-
17 lowing, spinning reserve, replacement reserves, fre-
18 quency regulation, and voltage regulation.

19 (b) LOAD POCKETS.—If transmission constraints
20 create load pockets within a State, then subsection (a) ap-
21 plies to the ownership, operation, or leasing of power
22 plants located within each load pocket.

23 **SEC. 205. BASIC SERVICE.**

24 (a) IN GENERAL.—A distributor shall arrange for the
25 provision of basic service to any residential and small com-
26 mercial customer who has not chosen a supplier after hav-

1 ing been notified of their opportunity to do so, and those
2 whose supplier has failed or refused to provide further
3 service to the customer. A distributor may arrange for the
4 provision of basic service to any other customer upon re-
5 quest and upon mutually agreeable terms. The distributor
6 shall automatically provide basic service to any customer
7 whose supplier has failed or refused to provide service to
8 that customer unless the customer has given instructions
9 to either disconnect service or switch to a different sup-
10 plier.

11 (b) BIDS.—The distributor shall annually solicit com-
12 petitive bids for the provision of basic service from all sup-
13 pliers licensed to do business in the State. If three or more
14 suppliers submit proposals that meet the minimum terms
15 contained in the bid document, the distributor shall accept
16 the bid that best meets the terms of the bid requirements
17 and offers the lowest price for electricity. If there are less
18 than three suppliers submitting proposals meeting mini-
19 mum terms, the State regulatory authority shall approve
20 the price for basic service prior to the award of any bid
21 by the distributor.

22 (c) TERMS.—The distributor shall include the follow-
23 ing terms in the solicitation for proposals for provision of
24 basic service:

1 (1) The supplier shall provide customers with a
2 choice between a price for electricity which does not
3 vary by time of day or season and a price that varies
4 by time of day and season.

5 (2) There shall be no administrative fee or
6 extra charge for a customer to obtain basic service.
7 There shall be no fee charged for any customer when
8 the service is provided as a result of a supplier's fail-
9 ure or refusal to serve a customer.

10 (3) The current rules in effect governing credit
11 and collection activities, deposits, disconnection, late
12 fees, reconnection fees, winter disconnection rules or
13 other restrictions on disconnection for vulnerable
14 customers, payment arrangements, medical emer-
15 gencies and other customer protections shall be ap-
16 plicable to basic service.

17 (4) The distributor shall bill and collect for
18 basic service charges, and the supplier shall reim-
19 burse the distributor an agreed-upon amount to re-
20 flect the costs avoided by the supplier due to this ar-
21 rangement. The costs of basic service in excess of
22 the revenues received, including any costs incurred
23 to collect overdue amounts, shall be included in the
24 rates charged by the distributor to all its customers.

1 **SEC. 206. AGGREGATION OF CONSUMERS.**

2 (a) **POWERS OF CONSUMERS.**—(1) A State shall
3 allow consumers to establish options for nonprofit public
4 aggregation. A State shall allow consumers to utilize a tra-
5 ditional public process at the local level to authorize public
6 aggregation in the form of new municipal electric systems;
7 franchise contracts; community choice aggregation; coop-
8 erative buying clubs in unincorporated areas.

9 (2) A State shall not diminish, restrict, or otherwise
10 render ineffective the process or ability of consumers to
11 establish or conduct public aggregation options. State reg-
12 ulatory bodies are to work cooperatively with local govern-
13 ments to enhance the process for carrying out the provi-
14 sions of subsections (b), (c), (d), (e), (f), (g), and (h)
15 below.

16 (b) **MUNICIPALIZATION.**—A State shall facilitate the
17 opportunities for consumers to establish new nonprofit
18 municipal electric systems. Such facilitation shall include
19 an arbitration process for asset valuation at original cost
20 minus depreciation. Existing municipal electric systems
21 and existing rural electric cooperative systems, as self-reg-
22 ulated by consumers, are to be exempted from all provi-
23 sions of this section.

24 (c) **FRANCHISE CONTRACT.**—A State shall facilitate
25 the ability of consumers to utilize local franchise powers.
26 A State shall allow municipalities or counties that have

1 granted franchises to utilities at a prior time, whether the
2 term of such franchise has expired or remains in effect,
3 to offer such franchise for competitive bidding and con-
4 tract award, provided such measures are authorized by
5 consumers in a public process. Such franchises may con-
6 tain terms to address combined distribution and power
7 supply, or any segment of operations for retail electricity
8 service.

9 (d) COMMUNITY CHOICE AGGREGATION.—A State
10 shall allow consumers the option to establish nonfranchise
11 aggregation of all consumers through their local govern-
12 ment. Municipalities or counties shall be allowed to pass
13 ordinances to undertake public aggregation of all classes
14 of consumers, provided such measures are authorized by
15 consumers in a public process. To accommodate those who
16 may not wish to participate, at local discretion, the aggre-
17 gation structure may include a process for individual con-
18 sumers to “opt-out” during a defined time period. Com-
19 munity choice aggregation may address competitive bid-
20 ding and contract award for power supply only, or addi-
21 tional services related to electric supply.

22 (e) BUYING COOPERATIVES IN UNINCORPORATED
23 AREAS.—Consumers in unincorporated areas without the
24 benefit of organized local governments shall be allowed to
25 combine their buying power in cooperative organizations;

1 provided such organizations are nonprofit and nondiscrim-
2 inatory.

3 (f) ENERGY EFFICIENCY FUNDS.—If a State author-
4 izes or mandates collection of funds for energy efficiency
5 programs, consumers who establish aggregation through
6 a public process can recover and utilize funds collected
7 from consumers within the aggregated jurisdiction. A plan
8 for utilization of such funds is to be prepared and subject
9 to approval at the local level, then submitted to State reg-
10 ulators for review of consistency with State energy goals.

11 (g) RENEWABLE ENERGY FUNDS.—If a State au-
12 thorizes or mandates collection of funds for renewable en-
13 ergy education, support, or development, consumers who
14 establish aggregation through a public process can recover
15 and utilize funds collected from consumers within the ag-
16 gregated jurisdiction. A plan for utilization of such funds
17 is to be prepared and subject to approval at the local level,
18 then submitted to State regulators for review of consist-
19 ency with State energy goals.

20 (h) CONVERGENCE OF UTILITY SERVICES.—If a
21 State authorizes retail marketing of combined “wires” or
22 energy services such as cable television, Internet, natural
23 gas, electricity, telephone, and other related technologies,
24 an entity established by consumers through a public pro-
25 cess shall be allowed to combine any and all services

1 deemed appropriate for provision to the aggregated con-
2 sumers.

3 **SEC. 207. WORKER PROTECTIONS.**

4 (a) RECOVERY OF COSTS.—Electric utilities shall be
5 allowed to recover reasonable employee-related transition
6 costs incurred and projected for programs that provide for
7 offers of voluntary severance, job retraining, early retire-
8 ment, continued health care, outplacement and related
9 benefits. However, there shall be no recovery for employe-
10 related transition costs associated with officers and senior
11 supervisory employees performing predominantly regu-
12 latory functions.

13 (b) UNEMPLOYMENT BENEFITS.—States should con-
14 sider extended unemployment benefits to any employee of
15 an electric utility company who is terminated through no
16 fault of his own as a result of electricity deregulation and
17 is otherwise eligible for unemployment benefits. No such
18 employee shall be denied or be determined to be ineligible
19 for any such benefits if the employer has provided notice
20 of the cessation of employment.

21 (c) PLAN.—Before any such reduction in the work-
22 force, an electric utility shall present to its employees and
23 their representatives a workforce reduction plan outlining
24 the means by which the electric utility intends to mitigate
25 the impact of such workforce reduction on its employees.

1 **SEC. 208. LICENSING AND DISCLOSURE REQUIREMENTS**
2 **FOR RETAIL SUPPLIERS.**

3 (a) PURPOSE.—The purpose of this section is to es-
4 tablish the jurisdiction of the State regulatory authority
5 over retail electricity suppliers and to set forth the condi-
6 tions under which such suppliers may obtain a license to
7 sell retail electricity in a State.

8 (b) LICENSE.—No retail electricity supplier shall en-
9 gage in the business of the sale, marketing, brokering, or
10 aggregating for the sale of electricity in a State without
11 a valid license from the State regulatory authority. All re-
12 tail electric suppliers who seek to do business in a State
13 shall file an application with the State regulatory author-
14 ity that includes the following information:

15 (1) Legal name.

16 (2) Business address.

17 (3) That State where incorporated; date or or-
18 ganization; copy of the articles of incorporation, as-
19 sociation or other form of organization.

20 (4) Names and business address of all officers
21 and directors, partners; or other similar officials.

22 (5) Name, title, and telephone number of cus-
23 tomer service contact person.

24 (6) Name, title, and telephone number of regu-
25 latory contact person.

1 (7) Name, title, and address of registered agent
2 in this State for service of process.

3 (8) Description of the nature of the business to
4 be conducted, a map showing the geographic area of
5 the supplier's intended marketing area, and a list of
6 any restrictions on the type or number of customers
7 the supplier will seek to serve.

8 (9) Evidence of the supplier's right, title, or in-
9 terest in generation supplies sufficient to meet the
10 existing and projected demands of its customers.

11 (10) A copy of the standard contract proposed
12 to be used by the supplier for residential and small
13 commercial customers.

14 (11) Whether the applicant or any member of
15 its board of directors or officers have been or are the
16 subject of State or Federal investigation, license rev-
17 ocation or lawsuit, and, if so, the identification of
18 such States and proceedings.

19 (12) Proof of holding a bond or other evidence
20 of insurance approved by the State regulatory au-
21 thority in the amount reflecting number of cus-
22 tomers served and the amount of electricity sold.
23 The bond must be updated annually on the anniver-
24 sary of the approval of the license, based on the sup-
25 plier's average number of customers and the amount

1 of electricity sold. The bond shall carry an endorse-
2 ment that shall allow the issuer of the bond or in-
3 surer to pay such amounts and in such a manner as
4 ordered by the State regulatory authority upon a
5 finding of fraudulent conduct toward consumers, ac-
6 tions which cause the electricity supply system to be-
7 come unreliable, revocation of the supplier's license,
8 abandonment by the supplier, or, upon complaint, a
9 failure to comply with the settlement's contract with
10 the distributor. The State regulatory authority may
11 order the bond proceeds to be paid to customers as
12 restitution for fraudulent conduct, violation of State
13 law or State regulatory authority rule, or to other
14 individuals adversely affected by the supplier's con-
15 duct.

16 (c) APPROVAL.—The application shall be deemed ap-
17 proved after 90 days, unless the State regulatory authority
18 initiates an adjudicatory proceeding by public notice that
19 states the reason(s) why there is reason to believe that
20 the application should be denied. The applicant shall have
21 an opportunity to correct any deficiency noted by the State
22 regulatory authority in writing or request a public hearing.
23 A failure to comply with the application requirements or
24 evidence that indicates a pattern of violation of State or
25 Federal consumer protection laws and rules, including

1 antitrust laws and securities rules, shall be sufficient to
2 deny an application. A license shall remain valid for a pe-
3 riod of five years unless sooner revoked.

4 (d) CHARGES.—After a license is issued, a retail elec-
5 tricity supplier must inform the State regulatory authority
6 in writing of any substantial change in the information
7 submitted to obtain a license from the State regulatory
8 authority within ten days of the event. The failure to pro-
9 vide such information in a timely manner shall be grounds
10 for revocation of the license.

11 (e) REVOCATION.—The State regulatory authority
12 may revoke a license for the retail sale of electricity for
13 cause after opportunity for public hearing. The State reg-
14 ulatory authority may issue an order that prevents a sup-
15 plier from marketing or signing up new customers during
16 the pendency of an investigation or revocation proceedings
17 when it finds that there is probable cause to believe that
18 consumers will be harmed or that the reliability of the elec-
19 tricity supply of a State will be harmed by the actions of
20 the supplier.

21 (f) OBLIGATIONS TO DISTRIBUTION COMPANIES.—A
22 retail electricity supplier shall enter into a contract with
23 each distributor that services its customers. The contract
24 shall describe the billing arrangements between the dis-
25 tributor and the supplier, how information concerning cus-

1 tomer status will be transmitted between the two entities,
2 whether and under what conditions upstream metering
3 will occur to facilitate settlements of nonhourly metered
4 customers and other settlement issues. The contract shall
5 be filed with the State regulatory authority by the retail
6 electric supplier prior to the commencement of business
7 by the supplier in this State.

8 (g) DISCLOSURE OF UNIVERSAL SERVICE PRO-
9 GRAMS.—A retail electric supplier shall inform every pro-
10 spective customer of the availability of universal service
11 programs for qualified customers and how customers can
12 apply for such programs. A summary of such programs
13 shall be provided in writing within ten days of commence-
14 ment of service for residential customers.

15 (h) STATE REGULATORY AUTHORITY ACCESS TO
16 BOOKS AND RECORDS; INVESTIGATIONS; FINES.—The
17 State regulatory authority shall have access to a retail
18 electric supplier's books and records concerning its busi-
19 ness within this State upon reasonable notice in order to
20 investigate, upon reasonable cause, any alleged violation
21 of this Act. The supplier shall make such books and
22 records available to the State regulatory authority within
23 this State at a location convenient to both parties. Upon
24 reasonable cause, the State regulatory authority may initi-
25 ate an investigation of the supplier's business in this State

1 for the purpose of determining compliance with any provi-
2 sion of this Act. Upon initiating such investigation, the
3 State regulatory authority shall notify the supplier and
4 other interested parties and take such steps as are nec-
5 essary and proper to protect the confidentiality of infor-
6 mation obtained from suppliers that would unfairly impact
7 the supplier's ability to attract future sales of electricity
8 in this State. The State regulatory authority shall offer
9 the supplier an opportunity to respond and request a pub-
10 lic hearing. Upon a finding that the supplier has violated
11 one or more provisions of this Act, the State regulatory
12 authority may issue such orders as necessary, pursue a
13 revocation of the supplier's license, order restitution to
14 specific customers, and assess fines according to section
15 216 of this Act.

16 **SEC. 209. REGULATION OF DISTRIBUTION COMPANIES.**

17 (a) DISTRIBUTION SYSTEM.—The distributor shall be
18 required to retain its monopoly role with respect to the
19 construction and maintenance of the distribution system
20 for all customers, installation of service and meter read-
21 ing, billing of customers for distribution and transmission
22 services, and provision of optional billing services under
23 contract with retail electricity suppliers. The distributor
24 shall provide access to the electric grid in a nondiscrim-
25 inatory manner to customers, be subjected to regulation

1 of the State regulatory authority for prices and the quality
2 of its customer service, and undertake such additional ob-
3 ligations with respect to energy efficiency and universal
4 access services as determined by the State regulatory au-
5 thority. The purpose of this subsection is to supplement
6 existing law and, where appropriate, substitute rights and
7 obligations for distribution companies in an electricity
8 market characterized by retail deregulation.

9 (b) UNBUNDLED RATES.—A distributor shall
10 unbundle or separate its charges for distribution and
11 transmission services into the following components:

12 (1) Transmission services.

13 (2) Distribution services, which shall include
14 the costs associated with universal service programs
15 and energy efficiency programs or expenses author-
16 ized by the State regulatory authority, bad debt and
17 other expenses associated with consumer protection
18 provisions.

19 (3) Charges for electricity supplied by a retail
20 electricity supplier or basic service arranged by the
21 distributor.

22 (c) CUSTOMER RIGHT OF ACCESS; DUTY OF DIS-
23 TRIBUTOR.—A distributor shall provide access to the elec-
24 tric grid in a nondiscriminatory manner to any person
25 upon request. Any condition imposed by the distributor

1 prior to providing access shall be contained in the compa-
2 ny's terms and conditions subject to review by the State
3 regulatory authority. The procedures adopted by the dis-
4 tributor to provide access to retail electric suppliers shall
5 include the following requirements:

6 (1) A distributor must offer to enter into an
7 agreement to govern metering, meter reading, trans-
8 mittal of billing information or billing services, and
9 settlement of accounts with any retail electric sup-
10 plier licensed by the State regulatory authority. The
11 retail supplier shall provide at least two weeks notice
12 to the distributor of its intent to do business in the
13 service territory of the distributor. The agreement
14 between the distributor and the retail electric sup-
15 plier must incorporate the provisions relating to the
16 funding and delivery of basic service programs; im-
17 plementation of the State regulatory authority's re-
18 quirements relating to credit and collection; bill noti-
19 fication and disclosure requirements; and notifica-
20 tion between customers, suppliers, and the distribu-
21 tor of intent to change suppliers or obtain reconne-
22 ction and disconnection services. A copy of the agree-
23 ment shall be filed with the State regulatory author-
24 ity but shall not require State regulatory authority
25 approval.

1 (2) No distributor shall discriminate against or
2 show favor toward any retail electric suppliers in its
3 communications or in its course of conduct with cus-
4 tomers or retail electric suppliers.

5 **SEC. 210. CHANGE OF SUPPLIER.**

6 (a) IN GENERAL.—A customer may change his or her
7 electric supplier at any time, subject to any penalty set
8 forth in the contract with the supplier. The distributor
9 may charge a reasonable fee to make a change in the cus-
10 tomer's supplier to reflect the actual cost to read the cus-
11 tomer's meter and make changes in its billing records, ex-
12 cept that every customer may seek to obtain basic service
13 as described in section 205 without charge. When a fee
14 is applicable, the distributor shall offer the customer the
15 option to self-read the meter or provide a timely meter
16 reading at a lower cost.

17 (b) NOTIFICATION.—Except for the automatic provi-
18 sion of basic service, a distributor shall not change the
19 identity of the customer's supplier if there is any reason
20 to believe that the notification procedures of section 213
21 have been violated. Instead, the distributor shall take im-
22 mediate steps to attempt to communicate directly with the
23 customer.

24 (c) NOTICE PERIOD.—A distributor may adopt a rea-
25 sonable notice period to effectuate a customer's change of

1 supplier, but this notice period shall not be greater than
2 three business days. The distributor shall read the cus-
3 tomer's meter or obtain a self-reading from the customer
4 prior to recording a change in the customer's supplier.

5 (d) METER.—Any change in the customer's supplier
6 shall take effect at the time of the meter reading by the
7 distributor, or, if an actual meter reading is not possible
8 after reasonable efforts to obtain an actual or customer-
9 supplied reading by the distributor, on midnight of the day
10 that the change is implemented by the distributor in its
11 records.

12 **SEC. 211. DISTRIBUTION SERVICE DISCONNECTIONS AND**
13 **SUPPLY TERMINATIONS.**

14 (a) DISCONNECTION.—All customers shall be pro-
15 tected from unreasonable distribution service disconnec-
16 tions and unreasonable supply terminations.

17 (b) DEFINITION.—Unreasonable distribution service
18 disconnection includes, without limitation, disconnection
19 from access—

20 (1) for failure to pay a seller other than the
21 seller of basic service; or

22 (2) in the case of qualified low-income house-
23 holds receiving basic service, before they—

1 (A) have been referred to social service
2 agencies that can provide them with assistance;
3 and

4 (B) have failed to pay under an extended
5 payment agreement; or

6 (3) when such disconnection would be dan-
7 gerous to the health or safety of a member of the
8 household, including during the presence of infants,
9 elders, disabled persons, and during risk of extreme
10 weather conditions. For the purposes of this section,
11 the term “infant” means any child under six years
12 of age, the term “elder” means any person 60 years
13 of age or older, and the term “disabled person” has
14 the same meaning as provided in the Americans with
15 Disabilities Act; or

16 (4) without contacting a third party designated
17 by such household to receive notice of proposed serv-
18 ice disconnection.

19 (c) PROHIBITION.—A seller shall not disconnect or
20 threaten to disconnect the customer’s electric service or
21 to terminate the customer’s electricity supply for failure
22 to pay for products or services other than electricity.

23 (d) PROTECTION.—All customers shall be protected
24 from unreasonable supply termination, including without
25 limitation—

1 (1) termination before adequate notice is pro-
2 vided of the supplier's intent to terminate, and of
3 the right to continue service via another supplier
4 provider or through basic service; or

5 (2) when used as a mechanism for bill collection
6 or during the pendency of a dispute regarding bill
7 amount.

8 (e) NOTICE.—A supplier may discontinue services to
9 a customer who fails to pay or make a reasonable payment
10 arrangement for an overdue amount in excess of \$50 by
11 giving notice to both the customer and the distributor. The
12 notice shall be in writing and conspicuously disclose the
13 amount overdue, what the customer must do to avoid dis-
14 continuance of service, how the customer can contact the
15 supplier to negotiate terms to avoid disconnection, and
16 how the customer can obtain basic service in place of fur-
17 ther service from the supplier. The notice shall be mailed
18 or delivered at least ten weekdays prior to disconnection
19 of service. Once the due date has passed, the supplier may
20 notify the distributor who shall change the customer's sup-
21 plier upon proper notice from the customer or initiate
22 basic service within three business days. The supplier's ob-
23 ligation to the distributor or network operator shall cease
24 with the disconnection of service by the distributor, the
25 initiation of basic service or the commencement of service

1 to the customer by a different supplier, whichever comes
2 first.

3 (f) TENANTS.—A tenant whose landlord fails to pay
4 for electric service shall not be disconnected from distribu-
5 tion service or from electricity supply. Where metering fa-
6 cilities exist, the tenant shall be offered an opportunity
7 to put service, including basic service, in his or her name.
8 In addition to any other remedy authorized by law, a retail
9 supplier and distributor may file a lien on the property
10 of any owner of a multi-unit, single-metered building for
11 failure to pay for electricity services. This lien shall be
12 filed in the same manner and perfected with the same pro-
13 cedures as those available to towns and cities for the col-
14 lection of unpaid property taxes and sewer charges.

15 (g) PHYSICIANS.—The distributor shall notify all its
16 customers of the right to have a registered physician de-
17 clare a medical emergency in the household and avoid dis-
18 connection for a period not to exceed 90 days. If a dis-
19 tributor receives such a declaration, it shall promptly no-
20 tify the customer's supplier. Upon receipt of a declaration
21 of medical emergency, a retail supplier shall not dis-
22 connect the customer. During this time period the cus-
23 tomer may request basic service or continue with service
24 from his or her retail supplier. During this time period
25 the customer may not be threatened with disconnection

1 and the supplier and distributor shall accept less than pay-
2 ment in full. The customer shall remain liable for all un-
3 paid amounts. At the end of a maximum period of 90
4 days, the customer shall either resume regular payments
5 or pay the overdue amount in full to avoid disconnection.

6 **SEC. 212. CREDIT AND COLLECTION PRACTICES.**

7 (a) STATE REGULATIONS.—A State authority’s cur-
8 rent credit and collection regulations shall remain in effect
9 to govern the actions of a distributor with regard to basic
10 service and the billing and collection of distribution and
11 transmission services provided by the distributor and other
12 companies.

13 (b) BILLING AND COLLECTION.—The following pro-
14 visions apply to the billing and collection for the sales of
15 electricity by retail suppliers and the billing and collection
16 for sales of electricity by distributors under contract with
17 suppliers:

18 (1) A distributor that offers to bill for suppliers
19 shall allocate a customer’s partial payment first to
20 services regulated by the State regulatory authority,
21 including without limitation, distribution and trans-
22 mission services, and then to the unregulated portion
23 of the bill. For purposes of this paragraph, the term
24 “services regulated by the State regulatory author-
25 ity” includes energy management and efficiency

1 services provided to the customer pursuant to an
2 order of a State regulatory authority and billed by
3 the distributor.

4 (2) A retail supplier shall not refuse to grant
5 credit to any applicant based on a prohibited basis
6 contained in the Federal Equal Credit Opportunity
7 Act, 15 U.S.C. 1691–1691f.

8 (3) Any deposit required by a retail supplier
9 shall not exceed the applicant’s estimated bill for a
10 two-month period. The State regulatory authority
11 may waive the supplier’s right to a deposit in any
12 case in which it finds that the supplier has discrimi-
13 nated in its request for a deposit from an applicant.
14 The State regulatory authority may take into ac-
15 count the supplier’s written credit and collection pro-
16 cedures and their application in making this deci-
17 sion. A request for a deposit shall be in writing and
18 inform the applicant of the reason for the request,
19 the source of the information that led to the request,
20 the amount, the applicant’s payment options, and
21 how the applicant can have the deposit refunded.

22 (4) A retail supplier may charge a late fee if a
23 customer’s payment is paid after the due date on the
24 customer’s bill. The amount of the late fee shall not

1 exceed customary business practice for consumer
2 goods.

3 **SEC. 213. UNFAIR TRADE PRACTICES.**

4 The following specific practices shall be prohibited:

5 (1) SLAMMING.—No electric utility, distributor,
6 supplier, or any person, firm, corporation, or govern-
7 mental entity shall make any change or authorize a
8 different supplier for any residential or small com-
9 mercial customer until the change has been con-
10 firmed by an independent third-party verification
11 company, as follows:

12 (A) The third-party verification company
13 shall meet each of the following criteria:

14 (i) Be independent from the entity
15 that seeks to provide the new service.

16 (ii) Not be directly or indirectly man-
17 aged, controlled, directed, or owned, wholly
18 or in part, by an entity that seeks to pro-
19 vide the new service or by any corporation,
20 firm, or person who directly or indirectly
21 manages, controls, or directs or owns more
22 than 5 percent of the entity.

23 (iii) Operate from facilities physically
24 separate from those of the entity that
25 seeks to provide the new service.

1 (iv) Not derive commissions or com-
2 pensation based upon the number of sales
3 confirmed.

4 (B) The entity seeking to verify the sale
5 shall do so by connecting the customer by tele-
6 phone to the third-party verification company
7 or by arranging for the third-party verification
8 company to call the customer to confirm the
9 sale.

10 (C) The third-party verification company
11 shall obtain the resident's oral confirmation re-
12 garding the change and shall record that con-
13 firmation by obtaining appropriate verification
14 data. The record shall be available to the cus-
15 tomer upon request. Information obtained from
16 the customer through confirmation shall not be
17 used for marketing purposes. Any unauthorized
18 release of this information is grounds for a civil
19 suit by the aggrieved customer against the en-
20 tity or its employees who are responsible for the
21 violation.

22 (D) Notwithstanding subparagraphs (A),
23 (B), and (C), a supplier shall not be required
24 to comply with these provisions when the cus-
25 tomer directly calls the supplier to make

1 changes in suppliers. However, a supplier shall
2 not avoid the verification requirements by ask-
3 ing a customer to contact a supplier directly to
4 make any change in the supplier. A supplier
5 shall be required to comply with these verifica-
6 tion requirements for its own services. However,
7 a supplier shall not be required to perform any
8 verification requirements for any changes solie-
9 ited by another supplier.

10 (2) GIFTS.—A supplier shall not provide a gift
11 or inducement to a residential or small commercial
12 customer with a value in excess of \$50 or provide
13 any gift or inducement more than once per 12-
14 month period to the same household or small busi-
15 ness.

16 (3) ADVERTISING.—A supplier shall not adver-
17 tise or disclose the price of electricity in such a man-
18 ner as to mislead a reasonable person into believing
19 that this portion of the bill will be the total bill
20 amount for the delivery of electricity to the cus-
21 tomer's location. When advertising or disclosing the
22 price for electricity, the supplier shall also disclose
23 the distributor's average current charges (including
24 transmission charges) for that customer class as ap-
25 proved by the State regulatory authority.

1 (4) CRAMMING.—A supplier shall not add op-
2 tional services to a customer's bill without receiving
3 knowledgeable consent from the customer.

4 (5) CANCELLATION.—In addition to any other
5 right to revoke an offer, residential and small com-
6 mercial customers have the right to cancel a con-
7 tract without fee or penalty for electric service until
8 midnight of the third business day after the day on
9 which the buyer receives a written confirmation of
10 the agreement to purchase such service. Cancellation
11 occurs when the buyer gives written notice of can-
12 cellation to the seller at the address specified in the
13 agreement or offer. Notice of cancellation, if given
14 by mail, is effective when deposited in the mail prop-
15 erly addressed with postage prepaid. Notice of can-
16 cellation given by the buyer need not take the par-
17 ticular form as provided with the contract or offer
18 to purchase and, however expressed, is effective if it
19 indicates the intention of the buyer not to be bound
20 by the contract.

21 **SEC. 214. METERS.**

22 (a) STANDARD METERS.—A distributor shall con-
23 tinue its obligation to furnish a standard meter to any
24 residential and small commercial applicant for service at
25 a previously unserved location without separate charge.

1 (b) INSTALLATION OF DIFFERENT METERS.—A cus-
2 tomer may install a different meter if it meets the tech-
3 nical qualifications and installation specifications estab-
4 lished by the distributor. The distributor may adopt rea-
5 sonable procedures to assure compliance with its technical
6 qualifications and installation specifications and shall in-
7 form its customers of these requirements promptly upon
8 request.

9 (c) PRICE VARIATIONS.—A supplier may vary the
10 price of electricity based on the type and capacity of the
11 installed meter to record hourly or seasonal prices. A sup-
12 plier's terms may include a requirement that a customer
13 with a nonhourly meter pay a separate fee or penalty if
14 the customer cancels a contract during certain times of
15 the year or without specified notice to the supplier.

16 (d) SALE OR LEASE OF DIFFERENT METERS.—A
17 supplier may offer to sell or lease a different meter and
18 to bill and collect separately for the meter on the electric
19 bill issued by a supplier or distributor.

20 (e) LOAD CURVES.—As a condition of offering elec-
21 tricity for sale within a territory served by a distributor,
22 a supplier must enter into an agreement with the party
23 responsible for settlement of network operations. These
24 agreements must allow for the use of average load shape
25 curves to bill and pay for the use of electricity by cus-

1 tomers without hourly-metered consumption. The average
2 curves shall be calculated at least four times per calendar
3 year for each supplier's customers without hourly meters.

4 (f) PAYMENT PRIOR TO DELIVERY.—It shall be un-
5 lawful to use or to require the use of a prepayment meter,
6 service limiter, or other device or program that requires
7 cash payment prior to the delivery of the service.

8 **SEC. 215. EXEMPTION RESCINDED FROM EQUAL CREDIT**
9 **OPPORTUNITY ACT.**

10 The regulations implementing the Equal Credit Op-
11 portunity Act (15 U.S.C sections 1691–1691(f)) exempt-
12 ing regulated utilities from application of certain provi-
13 sions of that Act, shall not apply to transactions concern-
14 ing the sale of services in a deregulated market.

15 **SEC. 216. CONSUMER REMEDIES.**

16 (a) IN GENERAL.—A consumer damaged by a viola-
17 tion of this section by an entity offering retail electricity
18 service is entitled to recover all of the following:

19 (1) Actual damages.

20 (2) The consumer's attorney's fees and court
21 costs.

22 (3) Exemplary damages, in the amount the
23 court deems proper, for intentional or willful viola-
24 tions.

25 (4) Equitable relief as the court deems proper.

1 (b) OTHER RIGHTS.—The rights, remedies and pen-
2 alties established by this section are in addition to the
3 rights, remedies or penalties established under any other
4 law.

○