

Bill no.:	HR 1647
Amendment no.:	1b
Date offered:	5/10/01
Disposition:	Not Approved by 12YJ 400 20 N/S

Price Gouging and Blackout Prevention  
Amendment

**H.R. 1647**

**AMENDMENT TO AMENDMENT IN THE NATURE OF  
A SUBSTITUTE  
OFFERED BY MR. WAXMAN**

Page 9, after line 17, insert the following new section and make the necessary conforming changes in the table of contents:

1 **SEC. 108. WHOLESALE ELECTRIC ENERGY RATES OF REGULATED ENTITIES IN THE WESTERN ENERGY MARKET.**

4 (a) DEFINITIONS.—In this section:

5 (1) COMMISSION.—The term “Commission”  
6 means the Federal Energy Regulatory Commission.

7 (2) COST-OF-SERVICE BASED RATE.—The term  
8 “cost-of-service based rate” means a rate, charge, or  
9 classification for the sale of electric energy that is  
10 equal to—

11 (A) all the reasonable variable costs for  
12 producing the electric energy;

13 (B) all the reasonable fixed costs for producing the electric energy;

14 (C) a reasonable risk premium or return  
15 on invested capital; and  
16



1 (D) all other reasonable costs associated  
2 with the production, acquisition, conservation,  
3 and transmission of electric power.

4 (3) LOAD-DIFFERENTIATED DEMAND RATE.—

5 The term “load-differentiated demand rate” means  
6 a rate, charge, or classification for the sale of elec-  
7 tric energy that reflects differences in the demand  
8 for electric energy during various times of day,  
9 months, seasons, or other time periods.

10 (4) PUBLIC UTILITY.—The term “public util-  
11 ity” has the meaning given the term in section 201  
12 of the Federal Power Act (16 U.S.C. 824).

13 (5) WESTERN ENERGY MARKET.—The term  
14 “western energy market” means the area within the  
15 United States that is covered by the Western Sys-  
16 tems Coordinating Council.

17 (b) IMPOSITION OF WHOLESALE ELECTRIC ENERGY  
18 RATES.—Not later than 30 days after the date of enact-  
19 ment of this Act, the Commission shall impose just and  
20 reasonable load-differentiated demand rates or cost-of-  
21 service based rates on sales by public utilities of electric  
22 energy at wholesale in the western energy market. The  
23 Commission shall not impose such rates under authority  
24 of this subsection on any facility generating electric energy

1 that did not generate electric energy at any time prior to  
2 January 1, 2001.

3 (c) LIMITATIONS.—

4 (1) IN GENERAL.—A load-differentiated de-  
5 mand rate or cost-of-service based rate shall not  
6 apply to a sale of electric energy at wholesale for de-  
7 livery in a State that, after the date of enactment  
8 of this Act—

9 (A) prohibits the State public utility com-  
10 mission from approving the passing through to  
11 retail consumers of cost-of-service based rates  
12 or load-differentiated demand rates approved by  
13 the Commission; or

14 (B) imposes a price limit on the sale of  
15 electric energy at retail that precludes a public  
16 utility (or any entity that is authorized to pur-  
17 chase electricity on behalf of a public utility or  
18 a State) from making a payment when due to  
19 any entity within the western energy market  
20 from which the public utility purchases electric  
21 energy for resale at retail within the western  
22 energy market.

23 (2) REQUIREMENT TO MEET IN-STATE DE-  
24 MAND.—Notwithstanding any other provision of law,  
25 a State public utility commission in the western en-

1       energy market may prohibit any utility subject to the  
2       jurisdiction of the State public utility commission  
3       from making any sale of electric energy to a pur-  
4       chaser outside the service area of the utility at any  
5       time at which the State public utility commission  
6       has reason to believe that delivery of the electric en-  
7       ergy would impair the ability of the utility to meet,  
8       at or after the time of the delivery, the demand for  
9       electric energy in the service area of the utility.

10       (d) **AUTHORITY OF STATE REGULATORY AUTHORI-**  
11 **TIES.**—This section does not diminish or have any other  
12 effect on the authority of a State regulatory authority (as  
13 defined in section 3 of the Federal Power Act (16 U.S.C.  
14 796)) to regulate rates and charges for the sale of electric  
15 energy to consumers, including the authority to determine  
16 the manner in which wholesale rates shall be passed  
17 through to consumers (including the setting of tiered pric-  
18 ing, real-time pricing, and baseline rates).

19       (e) **REPEAL.**—Effective on the date 18 months after  
20 the enactment of this Act, this section is repealed, and  
21 any load-differentiated demand rate or cost-of-service  
22 based rate imposed under this section that is then in effect  
23 shall no longer be effective.

