

Bill no.:	H.R. 1647
Amendment no.:	1j
Date offered:	5/10/01
Disposition:	Withdrawn

H.R. 1647
AMENDMENT TO AMENDMENT IN THE NATURE OF
A SUBSTITUTE
OFFERED BY MR. MARKEY

Page 9, after line 17, insert:

1 **SEC. 108. PROTECTION OF WHOLESALE ELECTRIC MAR-**
2 **KETS.**

3 (a) **AUTHORITY TO SELL AT MARKET-BASED**
4 **RATES.**—After the enactment of this Act, the Federal En-
5 ergy Regulatory Commission may not issue any order or
6 other form of approval permitting any public utility regu-
7 lated under Part II of the Federal Power Act to sell whole-
8 sale electric energy at market based rates, or renew any
9 such order or other form of approval, unless the Commis-
10 sion determines that such utility has agreed to meet the
11 requirements of subsection (b). Any such public utility de-
12 nied authority to make sales at market-based rates shall
13 be subject to cost-of-service ratemaking pursuant to such
14 Part II. Any entity making wholesale sales of electric en-
15 ergy not subject to the jurisdiction may, at such entity's
16 election, apply to the Commission for a determination that
17 such entity meets the requirements of subsection (b).

18 (b) **REQUIREMENTS FOR PUBLIC UTILITIES SELLING**
19 **AT MARKET-BASED RATES.**—The requirements referred
20 to in subsection (a) are as follows:



1 (1) LONG-TERM CONTRACTS.—At least 80 per-
2 cent of all wholesale sales of electric energy made by
3 the public utility or other entity shall be pursuant to
4 contracts providing for the sale of such electric en-
5 ergy at pre-determined prices over a period of at
6 least one year.

7 (2) WITHHOLDING.—The public utility or other
8 entity shall establish to the satisfaction of the Com-
9 mission that it will not withhold energy or capacity
10 from sale, except for reasons authorized by the Com-
11 mission.

12 (3) REFUNDS OF CERTAIN PRICES.—All mar-
13 ket-based sales made by the public utility or other
14 entity will be subject to refund at any time, notwith-
15 standing the refund period set forth in section 206
16 of the Federal Power Act, whenever the Commission
17 finds that the prices for such sales were not just and
18 reasonable or were unduly discriminatory or pref-
19 erential.

20 (4) COMPLIANCE.—The public utility or other
21 entity will make compliance filings with the Commis-
22 sion, in such form and manner as the Commission
23 may require, that include sufficient information for
24 the Commission to determine compliance the re-
25 quirements of paragraphs (1) through (3).



1 (c) MARKET BALANCE.—

2 (1) COMMISSION RULE OR ORDER.—The Fed-
3 eral Energy Regulatory Commission shall issue such
4 rules and orders as may be necessary to insure that
5 wholesale markets for electric energy meet the re-
6 quirements of this subsection.

7 (2) PRICES IN CERTAIN SPOT MARKETS.—The
8 rules or orders under this subsection shall require
9 that whenever the Commission determines that less
10 than 80 percent of the electric energy sales in any
11 market (as defined by the Commission) are sales
12 pursuant to contracts providing for the sale of elec-
13 tric energy at pre-determined prices over a period of
14 at least one year, the Commission shall establish
15 market clearing prices in single price auctions for all
16 electric power sold at wholesale in such market.
17 Such market cleaning prices shall be based only on
18 bids from—

19 (A) wholesale sellers of electric energy sub-
20 ject to the jurisdiction of the Commission who
21 are authorized to charge market-based rates
22 under subsection (a) or who are subject to cost-
23 of-service ratemaking pursuant to Part II of
24 such Act, and



1 (B) other entities making wholesale sales
2 of electric energy who have been determined by
3 the Commission to meet the requirements of
4 subsection (b).

5 (d) SPOT-MARKET CIRCUIT BREAKERS.—The Fed-
6 eral Energy Regulatory Commission shall issue such rules
7 and orders as may be necessary to insure that the whole-
8 sale price for electric energy (other than prices specified
9 pursuant to contracts providing for the sale of electric en-
10 ergy at pre-determined prices over a period of at least one
11 year) in any market (as defined by the Commission) do
12 not exceed a maximum established by the Commission
13 whenever reserves in such market are less than that nec-
14 essary to meet local control area spinning and non spin-
15 ning reserve requirements.

