

AMENDMENT TO COMMITTEE PRINT
OFFERED BY MR. MARKEY

Title VII is amended by striking sections 7082,
7083, and 7084 and inserting the following:

1 SEC. 7082. FRAUDULENT OR MANIPULATIVE PRACTICES.

2 (a) UNLAWFUL ACTS.—It shall be unlawful for any
3 entity, directly or indirectly, by the use of any means or
4 instrumentality of interstate commerce or of the mails to
5 use or employ, in the transmission of electric energy in
6 interstate commerce, the sale of electric energy at whole-
7 sale in interstate commerce, the transportation of natural
8 gas in interstate commerce, or the sale in interstate com-
9 merce of natural gas for resale for ultimate public con-
10 sumption for domestic, commercial, industrial, or any
11 other use, any fraudulent, manipulative, or deceptive de-
12 vice or contrivance in contravention of such rules and reg-
13 ulations as the Federal Energy Regulatory Commission
14 may prescribe as necessary or appropriate in the public
15 interest.

16 (b) APPLICATION OF FEDERAL POWER ACT TO THIS
17 ACT.—The provisions of section 307 through 309 and 313
18 through 317 of the Federal Power Act shall apply to viola-
19 tions of subsection (a) of this Act in the same manner
20 and to the same extent as such provisions apply to entities
21 subject to Part II of the Federal Power Act.

1 **SEC. 7083. REPORTING REQUIREMENTS IN ELECTRIC**
2 **POWER SALES AND TRANSMISSION.**

3 (a) **AUDIT TRAILS.**—Section 304 of the Federal
4 Power Act is amended by adding the following new sub-
5 section at the end thereof:

6 “(c)(1) The Commission shall, by rule or order, re-
7 quire each person or other entity engaged in the trans-
8 mission of electric energy in interstate commerce or the
9 sale of electric energy at wholesale in interstate commerce,
10 and each broker, dealer, exchange, electronic trading facil-
11 ity and power marketer involved in or facilitating any such
12 transmission or sale, to maintain, and periodically submit
13 to the Commission, such records, in electronic form, of
14 each transaction relating to such transmission or sale as
15 may be necessary to determine whether any person has
16 employed any fraudulent, manipulative, or deceptive device
17 or contrivance in contravention of rules promulgated by
18 the Commission.

19 “(2) Section 201(f) shall not limit the application of
20 this subsection.”.

21 (b) **NATURAL GAS.**—Section 8 of the Natural Gas
22 Act is amended by adding the following new subsection
23 at the end thereof:

24 “(d) The Commission shall, by rule or order, require
25 each person or other entity engaged in the transportation
26 of natural gas in interstate commerce, or the sale in inter-

1 state commerce of natural gas for resale for ultimate pub-
2 lic consumption for domestic, commercial, industrial, or
3 any other use, and each broker, dealer, exchange, elec-
4 tronic trading facility and power marketer involved in or
5 facilitating any such transportation or sale, to maintain,
6 and periodically submit to the Commission, such records,
7 in electronic form, of each transaction relating to such
8 transmission or sale as may be necessary to determine
9 whether any person has employed any fraudulent, manipu-
10 lative, or deceptive device or contrivance in contravention
11 of rules promulgated by the Commission.”.

12 **SEC. 7084. PENALTIES.**

13 (a) CRIMINAL PENALTIES.—Section 316 of the Fed-
14 eral Power Act (16 U.S.C. 825o(c)) is amended as follows:

15 (1) By striking “\$5,000” in subsection (a) and
16 inserting “\$5,000,000 for an individual and
17 \$25,000,000 for any other defendant”

18 (2) By striking “\$500” in subsection (b) and
19 inserting “\$1,000,000”.

20 (2) By striking subsection (c).

21 (b) CIVIL PENALTIES.—Section 316A of the Federal
22 Power Act (16 U.S.C. 825o–1) is amended as follows:

23 (1) By striking “section 211, 212, 213, or 214”
24 each place it appears and inserting “Part II”.

1 (2) By striking “\$10,000 for each day that
2 such violation continues” and inserting “the greater
3 of \$1,000,000 or three times the profit made or gain
4 or loss avoided by reason of such violation”.

5 (3) By adding the following at the end thereof:

6 “(c) AUTHORITY OF A COURT TO PROHIBIT INDIVID-
7 UALS FROM CERTAIN ACTIVITIES.—In any proceeding
8 under this section, the court may censure, place limita-
9 tions on the activities, functions, or operations of, suspend
10 or revoke the ability of any individual (without regard to
11 section 201(f)) to participate in the transmission of elec-
12 tric energy in interstate commerce or the sale of electric
13 energy at wholesale in interstate commerce if it finds that
14 such censure, placing of limitations, suspension, or revoca-
15 tion is in the public interest and that one or more of the
16 following applies to such individual:

17 “(1) Such individual has willfully made or
18 caused to be made in any application or report re-
19 quired to be filed with the Commission or with any
20 other appropriate regulatory agency, or in any pro-
21 ceeding before the Commission, any statement which
22 was at the time and in the light of the circumstances
23 under which it was made false or misleading with re-
24 spect to any material fact, or has omitted to state

1 in any such application or report any material fact
2 which is required to be stated therein.

3 “(2) Such individual has been convicted of any
4 felony or misdemeanor or of a substantially equiva-
5 lent crime by a foreign court of competent jurisdic-
6 tion which the court finds—

7 “(A) involves the purchase or sale of elec-
8 tricity, the taking of a false oath, the making
9 of a false report, bribery, perjury, burglary, any
10 substantially equivalent activity however de-
11 nominated by the laws of the relevant foreign
12 government, or conspiracy to commit any such
13 offense;

14 “(B) arises out of the conduct of the busi-
15 ness of transmitting electric energy in interstate
16 commerce or selling or purchasing electric en-
17 ergy at wholesale in interstate commerce;

18 “(C) involves the larceny, theft, robbery,
19 extortion, forgery, counterfeiting, fraudulent
20 concealment, embezzlement, fraudulent conver-
21 sion, or misappropriation of funds, or securities,
22 or substantially equivalent activity however de-
23 nominated by the laws of the relevant foreign
24 government; or

1 “(D) involves the violation of section 152,
2 1341, 1342, or 1343 or chapter 25 or 47 of
3 title 18, United States Code, or a violation of
4 a substantially equivalent foreign statute.

5 “(3) Such individual is permanently or tempo-
6 rarily enjoined by order, judgment, or decree of any
7 court of competent jurisdiction from acting as an in-
8 vestment adviser, underwriter, broker, dealer, munic-
9 ipal securities dealer, government securities broker,
10 government securities dealer, transfer agent, foreign
11 person performing a function substantially equiva-
12 lent to any of the above, or entity or person required
13 to be registered under the Commodity Exchange Act
14 or any substantially equivalent foreign statute or
15 regulation, or as an affiliated person or employee of
16 any investment company, bank, insurance company,
17 foreign entity substantially equivalent to any of the
18 above, or entity or person required to be registered
19 under the Commodity Exchange Act or any substan-
20 tially equivalent foreign statute or regulation, or
21 from engaging in or continuing any conduct or prac-
22 tice in connection with any such activity, or in con-
23 nection with the purchase or sale of any security.

24 “(4) Such individual has willfully violated any
25 provision of this Act.

1 “(5) Such individual has willfully aided, abet-
2 ted, counseled, commanded, induced, or procured the
3 violation by any other person of any provision of this
4 Act, or has failed reasonably to supervise, with a
5 view to preventing violations of the provisions of this
6 Act, another person who commits such a violation,
7 if such other person is subject to his supervision.
8 For the purposes of this paragraph no individual
9 shall be deemed to have failed reasonably to super-
10 vise any other person, if—

11 “(A) there have been established proce-
12 dures, and a system for applying such proce-
13 dures, which would reasonably be expected to
14 prevent and detect, insofar as practicable, any
15 such violation by such other person, and

16 “(B) such individual has reasonably dis-
17 charged the duties and obligations incumbent
18 upon him by reason of such procedures and sys-
19 tem without reasonable cause to believe that
20 such procedures and system were not being
21 complied with.

22 “(6) Such individual has been found by a for-
23 eign financial or energy regulatory authority to
24 have—

1 “(A) made or caused to be made in any
2 application or report required to be filed with a
3 foreign regulatory authority, or in any pro-
4 ceeding before a foreign financial or energy reg-
5 ulatory authority, any statement that was at
6 the time and in the light of the circumstances
7 under which it was made false or misleading
8 with respect to any material fact, or has omit-
9 ted to state in any application or report to the
10 foreign regulatory authority any material fact
11 that is required to be stated therein;

12 “(B) violated any foreign statute or regula-
13 tion regarding the transmission or sale of elec-
14 tricity or natural gas;

15 “(C) aided, abetted, counseled, com-
16 manded, induced, or procured the violation by
17 any person of any provision of any statutory
18 provisions enacted by a foreign government, or
19 rules or regulations thereunder, empowering a
20 foreign regulatory authority regarding trans-
21 actions in electricity or natural gas, or con-
22 tracts of sale of electricity or natural gas, trad-
23 ed on or subject to the rules of a contract mar-
24 ket or any board of trade, or has been found,
25 by a foreign regulatory authority, to have failed

1 reasonably to supervise, with a view to pre-
2 venting violations of such statutory provisions,
3 rules, and regulations, another person who com-
4 mits such a violation, if such other person is
5 subject to his supervision.

6 “(7) Such individual is subject to any final
7 order of a State commission (or any agency or offi-
8 cer performing like functions), State authority that
9 supervises or examines banks, savings associations,
10 or credit unions, State insurance commission (or any
11 agency or office performing like functions), an ap-
12 propriate Federal banking agency (as defined in sec-
13 tion 3 of the Federal Deposit Insurance Act (12
14 U.S.C. 1813(q))), or the National Credit Union Ad-
15 ministration, that—

16 “(A) bars such individual from association
17 with an entity regulated by such commission,
18 authority, agency, or officer, or from engaging
19 in the business of securities, insurance, bank-
20 ing, savings association activities, or credit
21 union activities; or

22 “(B) constitutes a final order based on vio-
23 lations of any laws or regulations that prohibit
24 fraudulent, manipulative, or deceptive conduct.

1 (8) Such individual is subject to statutory dis-
2 qualification within the meaning of section 3(a)(39)
3 of the Securities Exchange Act of 1934.”.

4 (c) NATURAL GAS ACT PENALTIES.—Section 21 of
5 the Natural Gas Act is amended by adding the following
6 new subsection at the end thereof:

7 “(c) AUTHORITY OF A COURT TO PROHIBIT INDIVID-
8 UALS FROM CERTAIN ACTIVITIES.—In any proceeding
9 under this section, the court may censure, place limita-
10 tions on the activities, functions, or operations of, suspend
11 or revoke the ability of any individual (without regard to
12 section 201(f)) to participate in the transportation of nat-
13 ural gas in interstate commerce, or the sale in interstate
14 commerce of natural gas for resale for ultimate public con-
15 sumption for domestic, commercial, industrial, or any
16 other use if it finds that such censure, placing of limita-
17 tions, suspension, or revocation is in the public interest
18 and that one or more of the following applies to such indi-
19 vidual:

20 “(1) Such individual has willfully made or
21 caused to be made in any application or report re-
22 quired to be filed with the Commission or with any
23 other appropriate regulatory agency, or in any pro-
24 ceeding before the Commission, any statement which
25 was at the time and in the light of the circumstances

1 under which it was made false or misleading with re-
2 spect to any material fact, or has omitted to state
3 in any such application or report any material fact
4 which is required to be stated therein.

5 “(2) Such individual has been convicted of any
6 felony or misdemeanor or of a substantially equiva-
7 lent crime by a foreign court of competent jurisdic-
8 tion which the court finds—

9 “(A) involves the purchase or sale of nat-
10 ural gas, the taking of a false oath, the making
11 of a false report, bribery, perjury, burglary, any
12 substantially equivalent activity however de-
13 nominated by the laws of the relevant foreign
14 government, or conspiracy to commit any such
15 offense;

16 “(B) arises out of the conduct of the busi-
17 ness of transmitting natural gas in interstate
18 commerce, or the selling in interstate commerce
19 of natural gas for resale for ultimate public
20 consumption for domestic, commercial, indus-
21 trial, or any other use;

22 “(C) involves the larceny, theft, robbery,
23 extortion, forgery, counterfeiting, fraudulent
24 concealment, embezzlement, fraudulent conver-
25 sion, or misappropriation of funds, or securities,

1 or substantially equivalent activity however de-
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3 government; or

4 “(D) involves the violation of section 152,
5 1341, 1342, or 1343 or chapter 25 or 47 of
6 title 18, United States Code, or a violation of
7 a substantially equivalent foreign statute.

8 “(3) Such individual is permanently or tempo-
9 rarily enjoined by order, judgment, or decree of any
10 court of competent jurisdiction from acting as an in-
11 vestment adviser, underwriter, broker, dealer, munic-
12 ipal securities dealer, government securities broker,
13 government securities dealer, transfer agent, foreign
14 person performing a function substantially equiva-
15 lent to any of the above, or entity or person required
16 to be registered under the Commodity Exchange Act
17 or any substantially equivalent foreign statute or
18 regulation, or as an affiliated person or employee of
19 any investment company, bank, insurance company,
20 foreign entity substantially equivalent to any of the
21 above, or entity or person required to be registered
22 under the Commodity Exchange Act or any substan-
23 tially equivalent foreign statute or regulation, or
24 from engaging in or continuing any conduct or prac-

1 tice in connection with any such activity, or in con-
2 nection with the purchase or sale of any security.

3 “(4) Such individual has willfully violated any
4 provision of this Act.

5 “(5) Such individual has willfully aided, abet-
6 ted, counseled, commanded, induced, or procured the
7 violation by any other person of any provision of this
8 Act, or has failed reasonably to supervise, with a
9 view to preventing violations of the provisions of this
10 Act, another person who commits such a violation,
11 if such other person is subject to his supervision.
12 For the purposes of this paragraph no individual
13 shall be deemed to have failed reasonably to super-
14 vise any other person, if—

15 “(A) there have been established proce-
16 dures, and a system for applying such proce-
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18 prevent and detect, insofar as practicable, any
19 such violation by such other person, and

20 “(B) such individual has reasonably dis-
21 charged the duties and obligations incumbent
22 upon him by reason of such procedures and sys-
23 tem without reasonable cause to believe that
24 such procedures and system were not being
25 complied with.

1 “(6) Such individual has been found by a for-
2 eign financial or energy regulatory authority to
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6 foreign regulatory authority, or in any pro-
7 ceeding before a foreign financial or energy reg-
8 ulatory authority, any statement that was at
9 the time and in the light of the circumstances
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12 ted to state in any application or report to the
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14 that is required to be stated therein;

15 “(B) violated any foreign statute or regula-
16 tion regarding the transmission or sale of elec-
17 tricity or natural gas;

18 “(C) aided, abetted, counseled, com-
19 manded, induced, or procured the violation by
20 any person of any provision of any statutory
21 provisions enacted by a foreign government, or
22 rules or regulations thereunder, empowering a
23 foreign regulatory authority regarding trans-
24 actions in electricity or natural gas, or con-
25 tracts of sale of electricity or natural gas, trad-

1 ed on or subject to the rules of a contract mar-
2 ket or any board of trade, or has been found,
3 by a foreign regulatory authority, to have failed
4 reasonably to supervise, with a view to pre-
5 venting violations of such statutory provisions,
6 rules, and regulations, another person who com-
7 mits such a violation, if such other person is
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9 “(7) Such individual is subject to any final
10 order of a State commission (or any agency or offi-
11 cer performing like functions), State authority that
12 supervises or examines banks, savings associations,
13 or credit unions, State insurance commission (or any
14 agency or office performing like functions), an ap-
15 propriate Federal banking agency (as defined in sec-
16 tion 3 of the Federal Deposit Insurance Act (12
17 U.S.C. 1813(q))), or the National Credit Union Ad-
18 ministration, that—

19 “(A) bars such individual from association
20 with an entity regulated by such commission,
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22 in the business of securities, insurance, bank-
23 ing, savings association activities, or credit
24 union activities; or

1 “(B) constitutes a final order based on vio-
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3 fraudulent, manipulative, or deceptive conduct.

4 “(8) Such individual is subject to statutory dis-
5 qualification within the meaning of section 3(a)(39)
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