

107TH CONGRESS
1ST SESSION

H. R. 1647

To provide for electricity emergencies.

IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2001

Mr. BARTON of Texas introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for electricity emergencies.

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 as the
5 “Electricity Emergency Relief Act”.

6 (b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

Sec. 2. Definitions.

TITLE I—GENERAL MEASURES FOR ELECTRIC ENERGY

Sec. 101. Demand management agreements clearinghouse.

Sec. 102. Price mitigation in western market through demand management incentives.

Sec. 103. Transmission constraints study.

- Sec. 104. Path 15 transmission expansion.
- Sec. 105. Tribal energy office.
- Sec. 106. Federal transmission corridors.
- Sec. 107. Guarantee of payment required for certain emergency power sales.
- Sec. 108. Sale of transmission assets to State of California.

TITLE II—FEDERAL ASSISTANCE AVAILABLE IN ELECTRIC
EMERGENCIES

- Sec. 201. Emergency conservation awareness.
- Sec. 202. Preparation for electricity blackouts.
- Sec. 203. Conservation at Federal facilities.
- Sec. 204. Daylight savings time.
- Sec. 205. PURPA contracts.

TITLE III—FEDERAL ASSISTANCE AVAILABLE UPON A
GOVERNOR'S REQUEST

- Sec. 301. Hydroelectric power license conditions.
- Sec. 302. Federal hydropower generation.
- Sec. 303. Nox preconstruction requirements for new generation.
- Sec. 304. Federal generation during State emergencies.
- Sec. 305. Emergency generation.
- Sec. 306. Regional transmission organization in western region.

1 **SEC. 2. DEFINITIONS.**

2 The terms used in this Act have the same meanings
3 as when used in the Federal Power Act (16 U.S.C. 791a
4 and following), except as otherwise provided in this Act.

5 **TITLE I—GENERAL MEASURES**
6 **FOR ELECTRIC ENERGY**

7 **SEC. 101. DEMAND MANAGEMENT AGREEMENTS CLEARING-**
8 **HOUSE.**

9 (a) IN GENERAL.—Not later than 30 days after the
10 enactment of this Act, the Federal Energy Regulatory
11 Commission shall establish a clearinghouse system to fa-
12 cilitate agreements between wholesale sellers of electric en-
13 ergy and wholesale purchasers who are willing to forego,
14 for a specified period of time, the purchase of electric en-

1 ergy that they are entitled to purchase from the sellers
2 pursuant to contractual agreements. The specified period
3 of time concerned may include specified times of day or
4 specified times of year.

5 (b) COMPENSATION DEEMED JUST AND REASON-
6 ABLE.—The clearinghouse system established under this
7 section shall provide for the sale at wholesale to other pur-
8 chasers of the electric energy referred to in subsection (a).
9 The Commission shall, by rule or order, provide that any
10 reduced rate offered to a buyer as whole or partial com-
11 pensation for that buyer's willingness to forego purchases
12 shall be treated as just and reasonable for purposes of part
13 II of the Federal Power Act.

14 (c) COMPENSATION FOR FOREGONE PURCHASES.—
15 Compensation for a wholesale purchaser agreeing to fore-
16 go a purchase as provided in this section, including finan-
17 cial and non-financial compensation, rebates or other
18 types of compensation that meet such requirements as the
19 Commission shall establish, shall not be deemed unlawful
20 (as a rebate or preference or otherwise) under section
21 205(b) of the Federal Power Act (16 U.S.C. 824d(b)).

22 (d) DATE OF TERMINATION AND REPORT.—

23 (1) DATE OF TERMINATION; EFFECT ON EXIST-
24 ING AGREEMENTS.—The authority of this section
25 shall terminate on October 1, 2003. Such termi-

1 nation shall not affect any agreement entered into
2 pursuant to this section prior to the date of termi-
3 nation.

4 (2) REPORT.—The Commission shall report to
5 Congress by January 1, 2003, on the effect of this
6 section on the availability of electricity and shall rec-
7 ommend whether the authority of this section should
8 be extended beyond the date of termination.

9 **SEC. 102. PRICE MITIGATION IN WESTERN MARKET**
10 **THROUGH DEMAND MANAGEMENT INCEN-**
11 **TIVES.**

12 (a) REDUCED CONSUMPTION INCENTIVES.—Not
13 later than 30 days after the date of enactment of this Act,
14 the Commission shall implement a program that author-
15 izes any electric consumer of any electric utility within the
16 Western Systems Coordinating Council to sell at market
17 prices an amount of electric load the electric consumer is
18 willing to forego equal to a portion of either of the fol-
19 lowing:

20 (1) The total amount of electric load which
21 such consumer is entitled to consume under contract
22 or applicable regulation.

23 (2) Where the amount the consumer is entitled
24 to consume is not specifically limited by contract or
25 regulation, the total amount of electric load the con-

1 sumer would otherwise reasonably be expected to
2 consume, as determined by the Commission.

3 Such foregone load may be sold for a period not to exceed
4 the term of the electric consumer's entitlement to the con-
5 sumption and may be sold to either (A) the electric utility
6 serving the electric consumer, or (B) any other electric
7 utility or Federal Power Marketing Agency as defined in
8 section 3(19) of the Federal Power Act. For any sales re-
9 ferred to in subparagraph (B), the electric utility shall
10 make available to the purchaser of the foregone electric
11 load an amount of electric energy equal to the foregone
12 load. For any sale of foregone load under this section, the
13 electric utility of the consumer shall receive the full
14 amount of the contract price or rate under applicable reg-
15 ulation to which such electric utility would otherwise be
16 entitled for the foregone load. The program authorized by
17 this subsection shall remain in effect until October 2003.
18 Any agreement entered into pursuant to this section be-
19 fore such date shall remain valid thereafter.

20 (b) EFFECT ON OTHER STATE AND FEDERAL
21 LAWS.—No agreement to sell, or sale, of foregone electric
22 load under this section shall be treated as a sale or resale
23 of electric energy for purposes of the Federal Power Act
24 (16 U.S.C 792 and following) or the the Public Utility
25 Regulatory Policies Act of 1978 (16 U.S.C. 2602). No

1 person shall be treated as an electric utility company for
2 purposes of the Public Utility Holding Company Act (15
3 U.S.C. 79a and following) solely by reason of any such
4 agreement or sale. Nothing in this section shall be con-
5 strued to permit a retail consumer of electricity to choose
6 its supplier of electricity.

7 (c) DEFINITION.—As used in this section, the terms
8 “electric consumer” and “electric utility” shall have the
9 meanings provided by section 3 of the Public Utility Regu-
10 latory Policies Act of 1978 (16 U.S.C. 2602).

11 **SEC. 103. TRANSMISSION CONSTRAINTS STUDY.**

12 The Secretary of Energy and the Federal Energy
13 Regulatory Commission shall undertake a joint study of
14 electric power transmission congestion and develop a plan
15 to relieve constraints that reduce the efficiency of the
16 transmission of electric power within the various regions
17 of the country and with Canadian and Mexican electric
18 transmission systems. The Secretary and the Commission
19 shall submit a report to Congress within 6 months after
20 the enactment of this Act, containing the findings and rec-
21 ommendations of the joint study.

22 **SEC. 104. PATH 15 TRANSMISSION EXPANSION.**

23 (a) IN GENERAL.—The Administrator of the Western
24 Area Power Administration System (hereinafter in this
25 section referred to as “WAPA”) is authorized to expand

1 WAPA's transmission system to remove the PATH 15
2 constraint. All costs of such expansion shall be recovered
3 on behalf of the United States by WAPA from trans-
4 mission fees imposed by WAPA on transmission of electric
5 energy or from the sale of ownership interests in such
6 transmission facilities. WAPA shall offer to all electric
7 utilities on a not unduly discriminatory or preferential
8 basis the expanded electric power transmission capacity
9 made available as provided in this section.

10 (b) AUTHORIZATION.—There is authorized to be ap-
11 propriated not more than \$220,000,000 to carry out this
12 subsection.

13 **SEC. 105. TRIBAL ENERGY OFFICE.**

14 (a) ESTABLISHMENT.— There shall be within the De-
15 partment of Energy an Office of Tribal Energy to be head-
16 ed by a Director, who shall be appointed by the Secretary.

17 (b) DUTIES AND RESPONSIBILITIES.—It shall be the
18 duty and responsibility of the Director to—

19 (1) promote tribal energy efficiency;

20 (2) advise the Secretary with respect to the de-
21 velopment of energy resources on tribal land, includ-
22 ing renewable energy, electricity power plants and
23 transmission lines, oil and gas, hydropower, and
24 coal;

1 (3) assist Indian tribes that support develop-
2 ment of energy resources on tribal land, providing
3 energy information and technical assistance to such
4 tribes; and

5 (4) coordinate with the Department of the Inte-
6 rior and Bureau of Indian Affairs on development
7 on energy resources on tribal lands.

8 (c) AUTHORIZATION OF APPROPRIATIONS.—There
9 are authorized to be appropriated such sums as may be
10 necessary to carry out this section.

11 (b) TABLE OF CONTENTS.—The table of contents for
12 such Act is amended by adding the following new item
13 at the end of the items relating to title II:

“Sec. 213. Office of Tribal Energy.”.

14 **SEC. 106. FEDERAL TRANSMISSION CORRIDORS.**

15 The Secretary of Energy, in consultation with Fed-
16 eral land managing agencies, is authorized and directed
17 to establish electric power transmission corridors across
18 Federal lands, after conducting a study of the need for
19 transmission expansion and determining that siting of
20 transmission facilities on Federal land is necessary or ap-
21 propriate to promote transmission of electric energy in
22 interstate commerce. The Department of Energy shall be
23 the lead agency for conducting environmental review of the
24 establishment of such corridors for purposes of the Na-
25 tional Environmental Policy Act of 1969. The Secretary

1 of Energy is authorized to be a party to any proceeding
2 regarding electric power transmission siting on Federal
3 lands. For purposes of this section, the term “Federal
4 land managing agencies” means the Bureau of Land Man-
5 agement, the United States Forest Service, the United
6 States Fish and Wildlife Service, the National Park Serv-
7 ice, and the Department of Defense.

8 **SEC. 107. GUARANTEE OF PAYMENT REQUIRED FOR CER-**
9 **TAIN EMERGENCY POWER SALES.**

10 Notwithstanding any other provision of law, neither
11 the Secretary of Energy, the Commission, any other offi-
12 cer or agency in the Executive branch, nor any court may
13 issue an order that requires a seller of electric energy or
14 natural gas to sell, on or after the date of enactment of
15 this Act, electric energy or natural gas to a purchaser un-
16 less there is a guarantee that is sufficient, as determined
17 by the Commission, to ensure that the seller will be paid
18 the full purchase price when due.

19 **SEC. 108. SALE OF TRANSMISSION ASSETS TO STATE OF**
20 **CALIFORNIA.**

21 Notwithstanding section 201(f) of the Federal Power
22 Act (16 U.S.C. 824b(f)), if the State of California, or any
23 entity established by the State, owns or operates trans-
24 mission facilities acquired from any public utility subject
25 to the jurisdiction of the Commission, the State, or such

1 entity, shall be subject to the jurisdiction of the Commis-
2 sion under part II of such Act with respect to such facili-
3 ties to the same extent and in the same manner as would
4 be the public utility from which such transmission facili-
5 ties were acquired.

6 **TITLE II—FEDERAL ASSISTANCE**
7 **AVAILABLE IN ELECTRIC**
8 **EMERGENCIES**

9 **SEC. 201. EMERGENCY CONSERVATION AWARENESS.**

10 The Secretary of Energy, in consultation and coordi-
11 nation with affected States, is authorized and directed to
12 conduct an emergency awareness campaign to promote
13 conservation in geographic areas where demand for elec-
14 tric energy is expected to exceed available supplies. Such
15 campaign shall use broadcast, print, and other media as
16 appropriate to raise public awareness of the likelihood and
17 consequences of electric energy shortages and to promote
18 specific actions to reduce consumption of electric energy
19 for non-essential purposes during periods of peak demand.

20 **SEC. 202. PREPARATION FOR ELECTRICITY BLACKOUTS.**

21 The Secretary of Energy, in consultation and coordi-
22 nation with the Director of the Federal Emergency Man-
23 agement Agency, is authorized and directed to make prep-
24 arations to handle emergency situations caused by wide-

1 spread electric energy blackouts. Such preparations shall
2 include each of the following specific actions:

3 (1) Establishing an office in States in which
4 electric energy blackouts are expected to occur.

5 (2) Conducting an educational campaign pre-
6 paring the public for electric energy blackouts.

7 (3) Preparing an emergency plan ready to pro-
8 vide immediate assistance during blackouts, includ-
9 ing coordination with police, fire and safety agencies
10 to address emergency situations resulting from elec-
11 tric energy blackouts.

12 **SEC. 203. CONSERVATION AT FEDERAL FACILITIES.**

13 (a) REQUIREMENT.—If an electricity emergency is in
14 effect in a State pursuant to a declaration by the Governor
15 of the State, each Federal agency shall apply electricity
16 conservation measures to its Federal buildings in use in
17 a State so that the electricity consumption per gross
18 square foot of its Federal buildings in use in the State
19 during any period for the duration of the electricity emer-
20 gency is at least 10 percent less than the electricity con-
21 sumption per gross square foot of its Federal buildings
22 in use in the State during the comparable period of the
23 last year during which that comparable period did not
24 occur during an electricity emergency.

1 (b) EXPIRATION.—This section shall not apply after
2 October 1, 2003.

3 **SEC. 204. DAYLIGHT SAVINGS TIME.**

4 (a) AUTHORITY.—

5 (1) IN GENERAL.—Notwithstanding the Act of
6 March 19, 1918 (15 U.S.C. 261–264), if the legisla-
7 ture of any of the States of California, Nevada, Or-
8 egon, or Washington makes a finding that adjusting
9 the standard time is necessary to help alleviate an
10 electricity crisis, the legislature of such State may
11 make any adjustments to the standard time, on a
12 statewide basis, as it considers necessary.

13 (2) SUBSEQUENT STATE AUTHORITY.—The leg-
14 islature of any State referred to in paragraph (1)
15 may make the same adjustment made by any other
16 State that has acted under paragraph (1), without
17 making the finding required by that paragraph.

18 (b) STANDARD TIME.—For the purposes of the Act
19 of March 19, 1918 (15 U.S.C. 261–264), adjusted time
20 implemented pursuant to subsection (a) of this section
21 shall be considered the standard time in those States
22 where it is in effect.

23 (c) EXPIRATION.—The authority to have adjusted
24 time in effect pursuant to subsection (a) shall expire after
25 December 31, 2003.

1 **SEC. 205. PURPA CONTRACTS.**

2 (a) **NONPAYMENT FOR POWER.**—Within 60 days
3 after the enactment of this subsection, the Commission
4 shall revise the rules under section 210 of the Public Util-
5 ity Regulatory Policies Act of 1978 to provide that if—

6 (1) the owner or operator of a qualifying small
7 power production facility, or qualifying cogeneration
8 facility, as defined in the Public Utility Regulatory
9 Policies Act of 1978 (16 U.S.C. 824a–3), has sold
10 electric energy pursuant to a contract under this
11 section to an electric utility, and

12 (2) such owner or operator has not been paid
13 for such energy within the payment period provided
14 in the contract,

15 such owner or operator may suspend so much of the con-
16 tract as requires the power and energy from the facility
17 to be sold to such electric utility. During any such suspen-
18 sion, such owner or operator may sell the electric energy
19 covered by such contract to any other person or any other
20 party designated to receive such power or energy.

21 (b) **TERMINATION.**—A suspension under this sub-
22 section shall terminate on the first day of the contract
23 month after which the utility pays for the electric energy
24 received from the qualifying small power production facil-
25 ity or qualifying cogeneration facility concerned except as

1 otherwise provided in a judicial resolution of the contract
2 dispute or in a negotiated resolution between the parties.

3 (c) OTHER SERVICES.—During any suspension under
4 this subsection, the electric utility shall provide such
5 transmission, interconnection, and distribution services as
6 may be necessary to deliver electric energy from the quali-
7 fying small power production facility, or qualifying cogen-
8 eration facility, to the purchaser or to another trans-
9 mission system from which the purchaser may obtain de-
10 livery of the electric energy, subject to the requirements
11 of the Federal Power Act relating to transmission services.

12 (d) INTERCONNECTION.—Nothing in this subsection
13 shall affect the obligation of an electric utility to inter-
14 connect with a qualifying small power production facility
15 or qualifying cogeneration facility or to provide electric en-
16 ergy to such facility at rates that meet the requirements
17 of section 210(c) of the Public Utility Regulatory Policies
18 Act of 1978 pursuant to the rules of the Commission.
19 Where a qualifying facility exercises its rights under this
20 section, the electric utility party to the power purchase
21 contract shall maintain interconnection services
22 unimpeded and without interruption.

23 (e) SUNSET.—This section shall cease to apply on Oc-
24 tober 1, 2003.

1 **TITLE III—FEDERAL ASSIST-**
2 **ANCE AVAILABLE UPON A**
3 **GOVERNOR’S REQUEST**

4 **SEC. 301. HYDROELECTRIC POWER LICENSE CONDITIONS.**

5 The Commission shall promulgate a standard article
6 under section 10 of the Federal Power Act (16 U.S.C.
7 803) in order to permit increased generation at licensed
8 hydroelectric facilities to assist in alleviating any electric
9 supply, generating, or system reliability emergency that
10 has been declared by the Governor of the State in which
11 such facilities are located. Any licensee may include such
12 article in a license issued under Part II of such Act, in-
13 cluding any license issued before the enactment of this
14 Act. Such standard article shall provide that, if the Gov-
15 ernor submits a request for such action to the licensee,
16 upon notice to the Commission and after consultation with
17 the relevant resource agencies, the licensee may operate
18 with a temporary modification or suspension of any min-
19 imum flow requirement or other operational requirement
20 of the license during such emergency. Such temporary
21 modification or suspension shall not continue for more
22 than 2 years.

23 **SEC. 302. FEDERAL HYDROPOWER GENERATION.**

24 (a) **BONNEVILLE POWER ADMINISTRATION.**—During
25 any period (not in excess of 2 years) during which an elec-

1 tricity emergency is in effect in a State pursuant to a dec-
2 laration by the Governor of the State, if the governors of
3 each State within the Pacific Northwest (as defined in sec-
4 tion 3(14) of the Pacific Northwest Power Planning and
5 Conservation Act) request the Administrator of the Bon-
6 neville Power Administration to authorize hydropower fa-
7 cilities providing electric power to the Administration to
8 maximize electric generation at such facilities, the Admin-
9 istrator may authorize such generation.

10 (b) BUREAU OF RECLAMATION.—During any period
11 (not in excess of 2 years) during which an electricity emer-
12 gency is in effect in a State pursuant to a declaration by
13 the Governor of the State, in order to provide electric
14 power generation, if the Governor of such State so re-
15 quests, the Secretary of the Interior, acting through the
16 Commissioner of the Bureau of Reclamation, may author-
17 ize the maximum electric generation at hydroelectric facili-
18 ties operated by the Bureau.

19 (c) WAIVER.—Whenever the Administrator of the
20 Bonneville Power Administration or the Commissioner of
21 the Bureau of Reclamation authorizes maximum genera-
22 tion pursuant to this subsection at any facility, such au-
23 thorization shall waive the application of any restriction
24 or constraint under any Federal law, plan, rule, or order
25 (including any court order issued before the date of the

1 enactment of this Act pursuant to any Federal law) that
2 would otherwise apply to the operation of the facility con-
3 cerned, including any dam, powerplant, or other facility
4 under the administrative jurisdiction of the Administrator
5 or Commissioner, wherever located.

6 (d) NO JUDICIAL REVIEW.—A waiver under this sec-
7 tion shall not be subject to judicial review.

8 **SEC. 303. NO_x PRECONSTRUCTION REQUIREMENTS FOR**
9 **NEW GENERATION.**

10 During any period (not in excess of 2 years) during
11 which an electricity emergency is in effect in a State pur-
12 suant to a declaration by the Governor of the State, if
13 the Governor submits a request for such action to the Ad-
14 ministrator of the Environmental Protection Agency, the
15 Administrator may waive, for not more than a one year
16 period, for new electric generation units located in that
17 State, the requirements of section 111 of the Clean Air
18 Act relating to oxides of nitrogen and the preconstruction
19 requirements relating to oxides of nitrogen applicable to
20 such units under applicable implementation plan provi-
21 sions in effect in that State. At the expiration of such
22 waiver, such units shall be required to meet all such re-
23 quirements. Whenever the Administrator receives a Gov-
24 ernor's request for a waiver under this section, the Admin-
25 istrator shall make a determination regarding such re-

1 quest within 45 days from the date on which such request
2 is received.

3 **SEC. 304. FEDERAL GENERATION DURING STATE EMER-**
4 **GENCIES.**

5 (a) DEFINITION.—For purposes of this section, the
6 term “qualified Federal electric generation facility” means
7 any electric generation facility (other than a hydroelectric
8 power generation facility) owned or operated by a depart-
9 ment, agency, or instrumentality of the United States and
10 located in a State in which an electricity emergency has
11 been declared as provided in this section. Such term in-
12 cludes backup generators and portable generators.

13 (b) AUTHORIZATION OF GENERATION.—During any
14 period (not in excess of 2 years) during which an elec-
15 tricity emergency is in effect in a State pursuant to a dec-
16 laration by the Governor of the State, if the Governor sub-
17 mits a request for such action to the Secretary of Energy,
18 the Secretary may authorize any department, agency, or
19 instrumentality of the United States that owns or operates
20 a qualified Federal electric generation facility, to generate
21 electric energy for consumption by such department, agen-
22 cy, or instrumentality or for sales to such State for local
23 distribution in the State to assist in relieving emergency
24 electric power shortages if reimbursement is assured by
25 the recipient of such power or by a State government.

1 **SEC. 305. EMERGENCY GENERATION.**

2 (a) DEFINITION.—The term “high electricity emer-
3 gency day” means, for any State, a day on which a State
4 agency determines that rolling electric blackouts are immi-
5 nent and—

6 (1) in the case of California, during which a
7 Stage III Emergency has been declared by the Cali-
8 fornia Independent System Operator; or

9 (2) in the case of any other State, a similar
10 emergency has been declared by an appropriate
11 State agency in such other State.

12 (b) EXPEDITED APPROVAL FOR EMERGENCY GEN-
13 ERATION PROVISIONS.—The Administrator of the Envi-
14 ronmental Protection Agency shall expedite the consider-
15 ation and approval of State implementation plan amend-
16 ments submitted to the Administrator by a State under
17 the Clean Air Act to provide the emergency generation au-
18 thority described in subsection (c) or (d) of this section.
19 Whenever the Administrator receives a proposed plan
20 amendment under this section, the Administrator shall
21 make a determination regarding such amendment within
22 45 days from the date on which such amendment is re-
23 ceived.

24 (c) NO_x WAIVER AUTHORITY FOR NATURAL GAS-
25 FIRED GENERATION—Any State in which high electricity
26 emergency days may occur may submit a State implemen-

1 tation plan amendment to the Administrator of the Envi-
2 ronmental Protection Agency under the Clean Air Act pur-
3 suant to this subsection. Under such amendment, the Gov-
4 ernor of the State may temporarily waive all emission limi-
5 tations in effect under such plan, including any limitations
6 set forth in a permit, regarding emissions of oxides of ni-
7 trogen from natural gas fired electric power generation fa-
8 cilities in that State to permit additional generation on
9 any high electricity emergency day or any portion of such
10 a day. Such waiver may be issued only during a period
11 (not in excess of 2 years) during which an electricity emer-
12 gency is in effect in a State pursuant to a declaration by
13 the Governor of the State. Such temporary waiver shall
14 not authorize any emission source to disconnect or cease
15 using any emission control device used to control emis-
16 sions of oxides of nitrogen. No such temporary waiver may
17 remain in effect for a period longer than 6 consecutive
18 months.

19 (d) EMERGENCY GENERATION FOR PRIVATE USE.—
20 Any State in which high electricity emergency days may
21 occur may submit a State implementation plan amend-
22 ment to the Administrator of the Environmental Protec-
23 tion Agency under the Clean Air Act pursuant to this sub-
24 section. Under such amendment, if the Governor of the
25 State has declared an electricity emergency in the State,

1 the Governor may issue an order waiving, during any high
2 electricity emergency day or portion thereof, any otherwise
3 applicable requirements of the plan that would have the
4 effect or prohibiting or limiting the operation by any per-
5 son or entity or class or category thereof in such State
6 of any type of electric energy generation, using any type
7 of fuel available, if such electric energy is consumed only
8 by the person or entity generating it. Such waiver shall
9 not authorize any emission source to disconnect or cease
10 using any emission control device used to control emis-
11 sions of any air pollutant (within the meaning of the Clean
12 Air Act). Each such order shall expire 6 months after the
13 date of issuance.

14 (e) EFFECT ON AIR QUALITY.—The Administrator of
15 the Environmental Protection Agency may approve a plan
16 amendment described in subsection (c) or (d) of this sec-
17 tion only if the Administrator determines that such
18 amendment will not increase the net emissions of any air
19 pollutant in any affected air quality region and that the
20 amendment otherwise meets the requirements of the Clean
21 Air Act.

22 (f) STAY OR INJUNCTIONS PROHIBITED.—No stay or
23 injunction may be issued by any court under section 304
24 of the Clean Air Act against the Administrator of a State

1 regarding the submission or approval of a plan amend-
2 ment referred to in this section.

3 **SEC. 306. REGIONAL TRANSMISSION ORGANIZATION IN**
4 **WESTERN REGION.**

5 (a) IN GENERAL.—After notice and an opportunity
6 for a hearing, the Federal Energy Regulatory Commission
7 shall establish a regional transmission organization for the
8 region covered by the Western Systems Coordinating
9 Council if 10 or more of the Governors of the 14 States
10 covered in whole or in part by the Western Systems Co-
11 ordinating Council sign a petition submitted by one or
12 more of such Governors requesting the Commission to es-
13 tablish such organization.

14 (b) FEDERAL TRANSMISSION FACILITIES.—The
15 Bonneville Power Administration and the Western Area
16 Power Administration are each authorized and required
17 to participate in a regional transmission organization es-
18 tablished under this section. Each other entity (including
19 municipally owned entities and cooperatives) owning or
20 operating transmission facilities within the region covered
21 by the Western Systems Coordinating Council shall par-
22 ticipate in any such organization. Notwithstanding any
23 other law, participation may include delegation of oper-
24 ation and control of the transmission system concerned to
25 a regional transmission organization or other method of

1 participation, under terms and conditions the power mar-
2 keting administration concerned determines necessary or
3 appropriate, including being bound by operational and
4 other orders of the regional transmission organization and
5 by the results of arbitration of disputes with the organiza-
6 tion or with other participants.

7 (c) STATE AUTHORITY NOT AFFECTED.—Nothing in
8 this section affects the authority of States to regulate
9 transmission facility maintenance, planning, siting, and
10 other utility functions.

11 (d) SUNSET.—No regional transmission authority es-
12 tablished under this section shall be required to continue
13 to operate after the date 3 years after the regional trans-
14 mission organization is established.

○