

107TH CONGRESS  
1ST SESSION

# H. R. 1945

To amend the Federal Power Act and the Internal Revenue Code of 1986 to encourage the development and deployment of innovative and efficient energy technologies.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 22, 2001

Mr. QUINN (for himself, Mr. MEEHAN, and Mr. DOYLE) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, 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

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## A BILL

To amend the Federal Power Act and the Internal Revenue Code of 1986 to encourage the development and deployment of innovative and efficient energy technologies.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Combined Heat and Power Advancement Act of 2001”.

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

- Sec. 1. Short title; table of contents.  
 Sec. 2. Findings.  
 Sec. 3. Purpose.

TITLE I—INTERCONNECTION

- Sec. 101. Interconnection.

TITLE II—INVESTMENT TAX CREDIT FOR COMBINED HEAT AND  
 POWER SYSTEMS

- Sec. 201. Investment tax credit for combined heat and power systems.

1 **SEC. 2. FINDINGS.**

2 Congress finds that—

3 (1) the removal of barriers to the development  
 4 and deployment of combined heat and power tech-  
 5 nologies and systems, an example of an array of in-  
 6 novative energy-supply and energy-efficient tech-  
 7 nologies and systems, would—

8 (A) encourage technological innovation;

9 (B) reduce energy prices;

10 (C) spur economic development;

11 (D) enhance productivity;

12 (E) increase employment; and

13 (F) improve environmental quality and en-  
 14 ergy self-sufficiency;

15 (2) the level of efficiency of the United States  
 16 electricity-generating system has been stagnant over  
 17 the past several decades;

18 (3) technologies and systems available as of the  
 19 date of enactment of this Act, including a host of in-

1       novative onsite, distributed generation technologies,  
2       could—

3               (A) dramatically increase productivity;

4               (B) double the efficiency of the United  
5       States electricity-generating system; and

6               (C) reduce emissions of regulated pollut-  
7       ants and greenhouse gases;

8               (4) innovative electric technologies emit a much  
9       lower level of pollutants as compared to the average  
10      quantity of pollutants generated by United States  
11      electric generating plants as of the date of enact-  
12      ment of this Act;

13              (5) a significant proportion of the United  
14      States energy infrastructure will need to be replaced  
15      by 2010;

16              (6) the public interest would best be served if  
17      that infrastructure were replaced by innovative tech-  
18      nologies that dramatically increase productivity, im-  
19      prove efficiency, and reduce pollution;

20              (7) financing and regulatory practices in effect  
21      as of the date of enactment of this Act do not recog-  
22      nize the environmental and economic benefits to be  
23      obtained from the avoidance of transmission and dis-  
24      tribution losses, and the reduced load on the elec-

1       tricity-generating system, provided by onsite, com-  
2       bined heat and power production;

3           (8) many legal, regulatory, informational, and  
4       perceptual barriers block the development and dis-  
5       semination of combined heat and power and other  
6       innovative energy technologies; and

7           (9) because of those barriers, United States  
8       taxpayers are not receiving the benefits of the sub-  
9       stantial research and development investment in in-  
10      novative energy technologies made by the Federal  
11      Government.

12 **SEC. 3. PURPOSE.**

13       The purpose of this Act is to encourage energy pro-  
14      ductivity and efficiency increases by—

15           (1) removing barriers to the development and  
16      deployment of combined heat and power technologies  
17      and systems; and

18           (2) establishing an investment tax credit for  
19      qualified combined heat and power systems.

20 **TITLE I—INTERCONNECTION**

21 **SEC. 101. INTERCONNECTION.**

22       (a) DEFINITIONS.—Section 3 of the Federal Power  
23      Act (16 U.S.C. 796) is amended—

24           (1) by striking paragraph (23) and inserting  
25      the following:

1           “(23) TRANSMITTING UTILITY.—The term  
2           ‘transmitting utility’ means any entity (notwith-  
3           standing section 201(f)) that owns, controls, or oper-  
4           ates an electric power transmission facility that is  
5           used for the sale of electric energy.”; and

6           (2) by adding at the end the following:

7           “(26) APPROPRIATE REGULATORY AUTHOR-  
8           ITY.—The term ‘appropriate regulatory authority’  
9           means—

10                   “(A) the Commission;

11                   “(B) a State commission;

12                   “(C) a municipality; or

13                   “(D) a cooperative that is self-regulating  
14                   under State law and is not a public utility.

15           “(27) GENERATING FACILITY.—The term ‘gen-  
16           erating facility’ means a facility that generates elec-  
17           tric energy.

18           “(28) LOCAL DISTRIBUTION UTILITY.—The  
19           term ‘local distribution utility’ means an entity that  
20           owns, controls, or operates an electric power dis-  
21           tribution facility that is used for the sale of electric  
22           energy.

23           “(29) NON-FEDERAL REGULATORY AUTHOR-  
24           ITY.—The term ‘non-Federal regulatory authority’

1 means an appropriate regulatory authority other  
2 than the Commission.”.

3 (b) INTERCONNECTION TO DISTRIBUTION FACILI-  
4 TIES.—Section 210 of the Federal Power Act (16 U.S.C.  
5 824i) is amended—

6 (1) by redesignating subsection (e) as sub-  
7 section (g); and

8 (2) by inserting after subsection (d) the fol-  
9 lowing:

10 “(e) INTERCONNECTION TO DISTRIBUTION FACILI-  
11 TIES.—

12 “(1) INTERCONNECTION.—

13 “(A) IN GENERAL.—A local distribution  
14 utility shall interconnect a generating facility  
15 with the distribution facilities of the local dis-  
16 tribution utility if the owner of the generating  
17 facility—

18 “(i) complies with the final rule pro-  
19 mulgated under paragraph (2); and

20 “(ii) pays the costs of the interconnec-  
21 tion.

22 “(B) COSTS.—The costs of the  
23 interconnection—

24 “(i) shall be just and reasonable, and  
25 not unduly discriminatory, as determined

1 by the appropriate regulatory authority;  
2 and

3 “(ii) shall be comparable to the costs  
4 charged by the local distribution utility for  
5 interconnection by any similarly situated  
6 generating facility to the distribution facili-  
7 ties of the local distribution utility.

8 “(C) APPLICABLE REQUIREMENTS.—The  
9 right of a generating facility to interconnect  
10 under subparagraph (A) does not—

11 “(i) relieve the generating facility or  
12 the local distribution utility of other Fed-  
13 eral, State, or local requirements; or

14 “(ii) provide the generating facility  
15 with transmission or distribution service.

16 “(2) RULE.—

17 “(A) IN GENERAL.—Not later than 1 year  
18 after the date of enactment of this subpara-  
19 graph, the Commission shall promulgate a final  
20 rule to establish reasonable and appropriate  
21 technical standards for the interconnection of a  
22 generating facility with the distribution facili-  
23 ties of a local distribution utility.

1           “(B) PROCESS.—To the extent feasible,  
2           the Commission shall develop the standards  
3           through a process involving interested parties.

4           “(C) ADVISORY COMMITTEE.—The Com-  
5           mission shall establish an advisory committee  
6           composed of qualified experts to make rec-  
7           ommendations to the Commission concerning  
8           development of the standards.

9           “(D) ADMINISTRATION.—

10           “(i) BY A NON-FEDERAL REGULATORY  
11           AUTHORITY.—Except where subject to the  
12           jurisdiction of the Commission pursuant to  
13           provisions other than clause (ii), a non-  
14           Federal regulatory authority may admin-  
15           ister and enforce the rule promulgated  
16           under subparagraph (A).

17           “(ii) BY THE COMMISSION.—To the  
18           extent that a non-Federal regulatory au-  
19           thority does not administer and enforce the  
20           rule, the Commission shall administer and  
21           enforce the rule with respect to inter-  
22           connection in that jurisdiction.

23           “(3) RIGHT TO BACKUP POWER.—

24           “(A) IN GENERAL.—In accordance with  
25           subparagraph (B), a local distribution utility

1 shall offer to sell backup power to a generating  
2 facility that has interconnected with the local  
3 distribution utility to the extent that the local  
4 distribution utility—

5 “(i) is not subject to an order of a  
6 non-Federal regulatory authority to pro-  
7 vide open access to the distribution facili-  
8 ties of the local distribution utility;

9 “(ii) has not offered to provide open  
10 access to the distribution facilities of the  
11 local distribution utility; or

12 “(iii) does not allow a generating fa-  
13 cility to purchase backup power from an-  
14 other entity using the distribution facilities  
15 of the local distribution utility.

16 “(B) RATES, TERMS, AND CONDITIONS.—A  
17 sale of backup power under subparagraph (A)  
18 shall be at such a rate, and under such terms  
19 and conditions, as are just and reasonable and  
20 not unduly discriminatory or preferential, tak-  
21 ing into account the actual incremental cost,  
22 whenever incurred by the local distribution util-  
23 ity, to supply such backup power service during  
24 the period in which the backup power service is

1 provided, as determined by the appropriate reg-  
2 ulatory authority.

3 “(C) NO REQUIREMENT FOR CERTAIN  
4 SALES.—A local distribution utility shall not be  
5 required to offer backup power for resale to any  
6 entity other than the entity for which the  
7 backup power is purchased.

8 “(D) NEW OR EXPANDED LOADS.—To the  
9 extent backup power is used to serve a new or  
10 expanded load on the distribution system, the  
11 generating facility shall pay any reasonable  
12 costs associated with any transmission, distribu-  
13 tion, or generation upgrade required to provide  
14 such service.”.

15 (e) INTERCONNECTION TO TRANSMISSION FACILI-  
16 TIES.—Section 210 of the Federal Power Act (16 U.S.C.  
17 824i) is amended by inserting after subsection (e) (as  
18 added by subsection (b)) the following:

19 “(f) INTERCONNECTION TO TRANSMISSION FACILI-  
20 TIES.—

21 “(1) INTERCONNECTION.—

22 “(A) IN GENERAL.—Notwithstanding sub-  
23 sections (a) and (c), a transmitting utility shall  
24 interconnect a generating facility with the

1 transmission facilities of the transmitting utility  
2 if the owner of the generating facility—

3 “(i) complies with the final rule pro-  
4 mulgated under paragraph (2); and

5 “(ii) pays the costs of the intercon-  
6 tion.

7 “(B) COSTS.—

8 “(i) IN GENERAL.—Subject to clause  
9 (ii), the costs of the interconnection—

10 “(I) shall be just and reasonable  
11 and not unduly discriminatory; and

12 “(II) shall be comparable to the  
13 costs charged by the transmitting util-  
14 ity for interconnection by any simi-  
15 larly situated generating facility to the  
16 transmitting facilities of the transmit-  
17 ting utility.

18 “(ii) EFFECT OF FERC LITE.—A non-  
19 Federal regulatory authority that, under  
20 any provision of Federal law enacted be-  
21 fore, on, or after the date of enactment of  
22 this subparagraph, is authorized to deter-  
23 mine the rates for transmission service  
24 shall be authorized to determine the costs  
25 of any interconnection under this subpara-

1 graph in accordance with that provision of  
2 Federal law.

3 “(C) APPLICABLE REQUIREMENTS.—The  
4 right of a generating facility to interconnect  
5 under subparagraph (A) does not—

6 “(i) relieve the generating facility or  
7 the transmitting utility of other Federal,  
8 State, or local requirements; or

9 “(ii) provide the generating facility  
10 with transmission or distribution service.

11 “(2) RULE.—

12 “(A) IN GENERAL.—Not later than 1 year  
13 after the date of enactment of this subpara-  
14 graph, the Commission shall promulgate a final  
15 rule to establish reasonable and appropriate  
16 technical standards for the interconnection of a  
17 generating facility with the transmission facili-  
18 ties of a transmitting utility.

19 “(B) PROCESS.—To the extent feasible,  
20 the Commission shall develop the standards  
21 through a process involving interested parties.

22 “(C) ADVISORY COMMITTEE.—The Com-  
23 mission shall establish an advisory committee  
24 composed of qualified experts to make rec-

1           ommendations to the Commission concerning  
2           development of the standards.

3           “(3) RIGHT TO BACKUP POWER.—

4                   “(A) IN GENERAL.—In accordance with  
5           subparagraph (B), a transmitting utility shall  
6           offer to sell backup power to a generating facil-  
7           ity that has interconnected with the transmit-  
8           ting utility unless—

9                           “(i) Federal or State law (including  
10           regulations) allows a generating facility to  
11           purchase backup power from an entity  
12           other than the transmitting utility; or

13                           “(ii) a transmitting utility allows a  
14           generating facility to purchase backup  
15           power from an entity other than the trans-  
16           mitting utility using—

17                                   “(I) the transmission facilities of  
18           the transmitting utility; and

19                                   “(II) the transmission facilities  
20           of any other transmitting utility.

21           “(B) RATES, TERMS, AND CONDITIONS.—A  
22           sale of backup power under subparagraph (A)  
23           shall be at such a rate, and under such terms  
24           and conditions, as are just and reasonable and  
25           not unduly discriminatory or preferential, tak-

1 ing into account the actual incremental cost,  
2 whenever incurred by the local distribution util-  
3 ity, to supply such backup power service during  
4 the period in which the backup power service is  
5 provided, as determined by the appropriate reg-  
6 ulatory authority.

7 “(C) NO REQUIREMENT FOR CERTAIN  
8 SALES.—A transmitting utility shall not be re-  
9 quired to offer backup power for resale to any  
10 entity other than the entity for which the  
11 backup power is purchased.

12 “(D) NEW OR EXPANDED LOADS.—To the  
13 extent backup power is used to serve a new or  
14 expanded load on the transmission system, the  
15 generating facility shall pay any reasonable  
16 costs associated with any transmission, distribu-  
17 tion, or generation upgrade required to provide  
18 such service.”.

19 (d) CONFORMING AMENDMENTS.—Section 210 of the  
20 Federal Power Act (16 U.S.C. 824i) is amended—

21 (1) in subsection (a)(1)—

22 (A) by inserting “transmitting utility, local  
23 distribution utility,” after “electric utility,”;  
24 and

1 (B) in subparagraph (A), by inserting  
2 “any transmitting utility,” after “small power  
3 production facility,”;

4 (2) in subsection (b)(2), by striking “an evi-  
5 dentiary hearing” and inserting “a hearing”;

6 (3) in subsection (c)(2)—

7 (A) in subparagraph (B), by striking “or”  
8 at the end;

9 (B) in subparagraph (C), by striking  
10 “and” at the end and inserting “or”; and

11 (C) by adding at the end the following:

12 “(D) promote competition in electricity mar-  
13 kets, and”; and

14 (4) in subsection (d), by striking the last sen-  
15 tence.

16 **TITLE II—INVESTMENT TAX**  
17 **CREDIT FOR COMBINED HEAT**  
18 **AND POWER SYSTEMS**

19 **SEC. 201. INVESTMENT TAX CREDIT FOR COMBINED HEAT**  
20 **AND POWER SYSTEMS.**

21 (a) IN GENERAL.—Section 48(a)(3)(A) of the Inter-  
22 nal Revenue Code of 1986 (relating to energy property)  
23 is amended by striking “or” at the end of clause (i), by  
24 adding “or” at the end of clause (ii), and by adding at  
25 the end the following new clause:

1                   “(iii) a qualified combined heat and  
2                   power system,”.

3           (b) QUALIFIED COMBINED HEAT AND POWER SYS-  
4   TEMS.—

5           (1) IN GENERAL.—Section 48 of the Internal  
6   Revenue Code of 1986 (relating to energy credit; re-  
7   forestation credit) is amended by adding at the end  
8   the following new subsection:

9           “(c) QUALIFIED COMBINED HEAT AND POWER SYS-  
10   TEMS CREDIT.—

11           “(1) IN GENERAL.—For purposes of this sub-  
12   part, the term ‘qualified combined heat and power  
13   system’ means any property—

14           “(A) comprising a system that uses the  
15           same energy source for the simultaneous or se-  
16           quential generation of electricity or mechanical  
17           shaft power (or both) and steam or other forms  
18           of useful thermal energy (including heating and  
19           cooling applications), and

20           “(B) which meets the requirements de-  
21           scribed in paragraph (2).

22           “(2) REQUIREMENTS.—The requirements de-  
23           scribed in this paragraph are as follows:

24           “(A) MINIMUM STANDARDS FOR QUALI-  
25           FIED COMBINED HEAT AND POWER SYSTEMS.—

1           “(i) CAPACITY.—A qualified combined  
2           heat and power system must have an elec-  
3           trical capacity in excess of 50 kilowatts or  
4           with a capacity to produce mechanical  
5           power in excess of 67 horsepower (or an  
6           equivalent combination of electrical and  
7           mechanical energy capacities).

8           “(ii) POWER PRODUCED.—A qualified  
9           combined heat and power system must  
10          produce at least 20 percent of its total use-  
11          ful energy in the form of thermal energy  
12          and at least 20 percent of its total useful  
13          energy in the form of electrical or mechan-  
14          ical power (or a combination thereof).

15          “(B) ENERGY EFFICIENCY STANDARDS.—

16               “(i) ENERGY EFFICIENCY FOR SMALL-  
17               ER SYSTEMS.—In the case of a qualified  
18               combined heat and power system with an  
19               electrical capacity of not more than 50  
20               megawatts (or a mechanical energy capac-  
21               ity in excess of 67,000 horsepower), the  
22               total energy efficiency of the system must  
23               exceed 60 percent.

24               “(ii) ENERGY EFFICIENCY FOR LARG-  
25               ER SYSTEMS.—In the case of a qualified

1 combined heat and power system with an  
2 electrical capacity in excess of 50  
3 megawatts (or a mechanical energy capac-  
4 ity in excess of 67,000 horsepower), the  
5 total energy efficiency of the system must  
6 exceed 70 percent.

7 “(iii) ENERGY EFFICIENCY.—For pur-  
8 poses of this paragraph, the total energy  
9 efficiency of a combined heat and power  
10 system is computed as the sum of the use-  
11 ful electrical, thermal, and mechanical  
12 power produced by the system at normal  
13 operating rates, measured on a Btu basis,  
14 divided by the lower heating value of the  
15 primary fuel source for the system sup-  
16 plied.”.

17 (2) QUALIFIED COMBINED HEAT AND POWER  
18 SYSTEM AS PUBLIC UTILITY PROPERTY.—Section  
19 48(a)(3) of such Code (relating to energy property)  
20 is amended by inserting “(other than qualified com-  
21 bined heat and power systems)” after “‘energy  
22 property’” in the last sentence.

1           (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to property placed in service after  
3 June 30, 2001, and before June 30, 2005.

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