

107TH CONGRESS  
1ST SESSION

# H. R. 2757

To provide for the refund of certain overcharges for electricity in the Western States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 2, 2001

Ms. HARMAN (for herself, Ms. ESHOO, Mrs. CAPPS, Mr. WAXMAN, Ms. LOFGREN, Ms. WOOLSEY, Mr. HONDA, Mr. FARR of California, Mr. SHERMAN, Mr. FILNER, Mr. BACA, Ms. WATSON of California, Mr. CONDIT, Mr. SCHIFF, Mrs. DAVIS of California, Ms. SOLIS, Mr. GEORGE MILLER of California, Ms. PELOSI, Mr. THOMPSON of California, Mrs. NAPOLITANO, Mrs. TAUSCHER, and Mr. MATSUI) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To provide for the refund of certain overcharges for electricity in the Western States, and for other purposes.

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. REFUNDS OF CERTAIN ELECTRICITY CHARGES.**

4       (a) APPLICATION ONLY TO SALES OF ELECTRIC EN-  
5       ERGY IN WESTERN REGION.—This section applies only to  
6       sales of electric energy for use in that portion of the  
7       United States that is encompassed by the Western Sys-

1 tems Coordinating Council of the North American Electric  
2 Reliability Council.

3 (b) REFUNDS REQUIRED FOR CERTAIN SALES.—Not  
4 later than 30 days after the enactment of this Act, the  
5 Federal Energy Regulatory Commission shall order the re-  
6 fund of any rates and charges that applied to sales of elec-  
7 tric energy by public utilities subject to the jurisdiction  
8 of the Commission under the Federal Power Act during  
9 the period beginning October 2, 2000 through June 20,  
10 2001 to the extent that such rates and charges exceed just  
11 and reasonable rates as determined by the Commission  
12 under subsection (c). The refunds shall be made, with in-  
13 terest, to those persons who have paid such rates and  
14 charges.

15 (c) METHODOLOGIES.—(1) For purposes of sub-  
16 section (b), the Commission shall determine just and rea-  
17 sonable rates by using one of the two following methodolo-  
18 gies:

19 (A) Cost-of-service rates.

20 (B) The June 19, 2001, order of the Federal  
21 Energy Regulatory Commission modified as provided  
22 in paragraph (2).

23 (2) The modifications referred to in paragraph (2)  
24 shall—

1           (A) remove the 10 percent credit worthiness  
2       add;

3           (B) provide for a market price calculation based  
4       on the units that would have been running in a com-  
5       petitive market in each hour; and

6           (C) provide no premium above the mitigated  
7       market-clearing price based on 85 percent of the  
8       market-clearing price during the most recent stage 1  
9       emergency.

10       (3) As used in this section, the term “cost-of-service  
11   rates” means rates, charges, or classifications for the sale  
12   of electric energy that equal to the sum of the following:

13           (A) All variable and fixed costs of generating  
14       the electric energy concerned.

15           (B) Either—

16               (i) a reasonable risk premium, or

17               (ii) a return on invested capital used to  
18       generate and transmit such electric energy that  
19       reflects customary returns during the period  
20       1994 through 1999.

21           (C) Other reasonable costs associated with the ac-  
22       quisition, conservation, and transmission of such  
23       electric energy.

1       (d) ENFORCEMENT.—Any affected State may bring  
2 an action in the appropriate United States District Court  
3 to enforce this section.

4       (e) SAVINGS PROVISIONS.—Nothing in this section  
5 shall affect any authority of the Commission existing be-  
6 fore the enactment of this section.

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