

AMENDMENT NO. _____ Calendar No. _____

Purpose: To modify the provision relating to termination of mandatory purchase and sale requirements under PURPA.

IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Sess.

(no.) _____

(title) _____

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Ms. LANDRIEU

Viz:

1 Strike section 1145 and insert the following:

2 **SEC. 1145. COGENERATION AND SMALL POWER PRODUC-**
3 **TION PURCHASE AND SALE REQUIREMENTS.**

4 (a) **TERMINATION OF MANDATORY PURCHASE AND**
5 **SALE REQUIREMENTS.**—Section 210 of the Public Utility
6 Regulatory Policies Act of 1978 (16 U.S.C. 824a-3) is
7 amended by adding at the end the following:

1 “(m) TERMINATION OF MANDATORY PURCHASE AND
2 SALE REQUIREMENTS.—

3 “(1) OBLIGATION TO PURCHASE.— After the
4 date of enactment of this subsection, no electric util-
5 ity shall be required to enter into a new contract or
6 obligation to purchase electric energy from a quali-
7 fying cogeneration facility or a qualifying small
8 power production facility under this section if the
9 Commission finds that the qualifying cogeneration
10 facility or qualifying small power production facility
11 has access to an independently administered, auc-
12 tion-based day ahead and real time wholesale market
13 for the sale of electric energy.

14 “(2) OBLIGATION TO SELL.—After the date of
15 enactment of this subsection, no electric utility shall
16 be required to enter into a new contract or obliga-
17 tion to sell electric energy to a qualifying cogenera-
18 tion facility or a qualifying small power production
19 facility under this section if competing retail electric
20 suppliers are able to provide electric energy to the
21 qualifying cogeneration facility or qualifying small
22 power production facility.

23 “(3) NO EFFECT ON EXISTING RIGHTS AND
24 REMEDIES.—Nothing in this subsection affects the
25 rights or remedies of any party under any contract

1 or obligation, in effect on the date of enactment of
2 this subsection, to purchase electric energy or capac-
3 ity from or to sell electric energy or capacity to a
4 facility under this Act (including the right to recover
5 costs of purchasing electric energy or capacity).

6 “(4) RECOVERY OF COSTS.—

7 “(A) REGULATION.—The Commission
8 shall promulgate such regulations as are nec-
9 essary to ensure that an electric utility that
10 purchases electric energy or capacity from a
11 qualifying cogeneration facility or qualifying
12 small power production facility in accordance
13 with any legally enforceable obligation entered
14 into or imposed under this section before the
15 date of enactment of this subsection recovers all
16 prudently incurred costs associated with the
17 purchase.

18 “(B) ENFORCEMENT.—A regulation under
19 subparagraph (A) shall be enforceable in ac-
20 cordance with the provisions of law applicable
21 to enforcement of regulations under the Federal
22 Power Act (16 U.S.C. 791a et seq.).”.

23 (b) ELIMINATION OF OWNERSHIP LIMITATIONS.—
24 Section 3 of the Federal Power Act (16 U.S.C. 796) is
25 amended—

1 (1) by striking paragraph (17)(C) and inserting
2 the following:

3 “(C) ‘qualifying small power production facility’
4 means a small power production facility that the Commis-
5 sion determines, by rule, meets such requirements (includ-
6 ing requirements respecting minimum size, fuel use, and
7 fuel efficiency) as the Commission may, by rule, pre-
8 scribe;” and

9 (2) by striking paragraph (18)(B) and inserting
10 the following:

11 “(B) ‘qualifying cogeneration facility’ means a cogen-
12 eration facility that the Commission determines, by rule,
13 meets such requirements (including requirements respect-
14 ing minimum size, fuel use, and fuel efficiency) as the
15 Commission may, by rule, prescribe;”.