UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

CHAIRMAN'S MARK FOR ENERGY POLICY BILL

SUMMARY OF INTENDED SECTIONS YET TO BE MARKED UP

DIVISION A – NATIONAL ENERGY POLICY PLANNING AND COORDINATION

Title I – Integration of Energy and Climate Change Policy

Information on greenhouse gas emissions. Improvements to voluntary reporting system established under section 1605 of the Energy Policy Act of 1992.

International clean energy technology transfer. Provides for enhanced transfer of clean energy technology to developing countries and countries in transition that are expected to experience, over the next 20 years, the most significant growth in energy production and associated greenhouse emissions.

Title II – Regional Coordination on Energy Infrastructure

Policy. Establishes federal policy in support of coordination among states, on a regional basis, of state energy policies to provide reliable and affordable energy services, defined as including the generation and transmission of electricity; the transportation, storage, and distribution of oil and gas; and energy efficiency measures.

Compacts. Provides the consent of Congress for compacts to accomplish the policy under this title.

Federal support. Authorizes the Secretary of Energy to provide technical assistance to states and regional organizations that coordinate energy policies.

Title III – Reviews and Studies

Energy policy reviews and studies, not currently underway, that the Committee believes should be undertaken to assist in future energy policy development.

DIVISION B – RELIABLE AND DIVERSE ELECTRIC POWER GENERATION AND DISTRIBUTION

Title IV – Electricity

Transmission jurisdiction and regional transmission organizations. Clarifies that FERC has jurisdiction over transmission component of retail electric sales and may order transmitting utilities to join regional transmission organizations (RTOs). Extends FERC transmission jurisdiction to include municipal, cooperative and federal utilities.

Electric utility mergers. Strengthens FERC jurisdiction over mergers to include mergers of holding companies that own utilities, mergers of generation only utilities and acquisitions of natural gas companies by electric companies.

Market-based rates. Clarifies that the Commission may allow market-based rates, but only if the seller does not have market power and is selling into a competitive market. Allows the refund effective date under section 206 of the Federal Power Act to begin at the time of filing of a complaint.

Interconnections and backup power. Ensures that generators will be able to interconnect to the transmission system and receive backup power, and that distributed generation facilities will be able to interconnect to distribution systems and receive backup power.

Electric reliability standards. Authorizes FERC to establish and enforce, with deference to the North American Electric Reliability Council and RTOs, mandatory standards to ensure the reliability of the transmission system.

Remedial measures for market power. Clarifies that FERC may order a generating utility that is found to have market power to submit a mitigation plan.

Eminent domain authority. Allows RTOs which cannot obtain approval for siting a transmission line to seek eminent domain authority from the FERC.

Market transparency rules. Requires FERC to establish an electronic information system to provide information about the availability and price of wholesale electric energy and transmission services.

Access by intermittent generators Requires transmitting utilities to provide service for intermittent generators, such as wind, at rates and terms that do not penalize the generator for scheduling deviations.

Enforcement. Extends civil penalty authority to include violations of any provisions of the Federal Power Act. Repeals criminal penalty authority.

Title V – Improved Electricity Capacity and Access

Subtitle A – Holding Companies

PUHCA Repeal. Text of the Public Utility Holding Company Act of 2001, as reported by the Senate Committee on Banking. Repeals the Public Utility Holding Company Act of 1935 (PUHCA) and provides for federal and state access to holding company books and records.

Subtitle B – Benefits and Protections for Consumers

Public Benefits Fund. Provides for a federal public benefits fund, distributed as a block grant to the States and tribal governments, to fund public purpose programs related to electricity, including programs to assist low-income households in meeting their home energy needs; the planning, construction, or improvement of facilities to generate, transmit, or distribute electricity to Indian tribes or rural and remote communities; the development and implementation of measures to reduce the demand for electricity; the development and implementation of a greenhouse gas mitigation projects; new or additional capacity, or improved efficiency of existing capacity, from a wind, biomass, geothermal, solar thermal, photovoltaic, combined heat and power energy source; or additional generating capacity achieved from increased efficiency at existing hydroelectric dams or additions of new capacity at existing hydroelectric dams.

Rural construction grants. Provides for grants for construction or modernization of electricity systems in rural and remote communities.

Environmental disclosure. Provides for uniform reporting to consumers, in monthly electric bills, of the known energy sources used for the production of that electricity. Establishes a certification program for suppliers who use more than 50 percent of renewable energy sources in electricity generation.

Consumer protections. Provides for protection of electricity consumers through uniform information disclosure, privacy protection, and protection against unfair trade practices such as slamming, cramming,

Bonneville Power Administration borrowing authority. Increases BPA's borrowing authority by $2 billion, subject to appropriations.

Title VI - Renewables and Distributed Generation

Assessments of renewable energy resources. Requires periodic assessments of renewable resources available in the United States.

Federal purchase requirement. Requires that a certain percentage (3 percent in fiscal year 2002 increasing to 7.5 percent in fiscal year 2010) of the total electricity purchased by the federal government be generated by a renewable energy source.
Termination of PURPA purchase requirement. Ends the applicability of the mandatory purchase and sale requirements of the Public Utility Regulatory Policies Act (PURPA) to new contracts or obligations as of the date of enactment.

Real-time pricing, district heating and cooling, and fossil fuel efficiency. Provides that electric utilities offer real-time metering and pricing to customers, provide competitive access to the grid for local district heating and cooling systems, and increase the efficiency of their fossil-based generation.

Net metering. Requires electric suppliers to provide net metering services for on-site generators fueled by renewable energy resources, fuel cells, or combined heat and power.

Renewable portfolio standard. Requires an increase in renewable energy for electricity generation, from facilities placed in service after 2001, of 2.5 percent for 2006 through 2010 and 5 percent for 2011 to 2016. Credits for such renewable energy generation may be traded, or may be borrowed against future planned expansion of such generation. Renewable energy includes incremental hydropower at existing dam sites.

Renewable energy production incentive program reauthorization. Reauthorizes and reforms incentive program available to municipal and cooperative utilities for producing electricity from renewable energy sources. Includes Indian tribal governments in the program.

Title VII – Hydroelectric Relicensing

Alternative conditions. Requires federal resource agencies to accept alternative conditions proposed by applicants for a hydroelectric license, relating to fishways and resource protection, if the conditions cost less to implement or result in improved power generation, and are no less protective than the condition otherwise deemed necessary by the relevant agency Secretary. Allows any other interested party to submit alternative conditions for consideration by the relevant Secretary. If the Secretary rejects a proposed alternative condition, the Secretary shall include an explanation in the FERC's record of the proceedings. The resource agencies shall establish schedules for submission of conditions, including where appropriate for Secretarial review of proposed conditions.

Tribal lands. Provides that the FERC shall not issue a license for hydroelectric projects involving tribal lands until the annual charges to be paid the tribe for use of the lands have been set.

Disposition of hydroelectric charges. Provides the resource agencies with the moneys for administration of the hydroelectric relicensing provisions of Part I of the Federal Power Act. Provides for a portion of funds arising from fees charged for hydroelectric licenses to a fund to be used for restoration of the public

lands on which the project is located, or where the headwaters of the waterway serving the projects is located. Encourages use of the funds for the benefit of local communities within or near the public lands on which the project is located.

Annual licenses. Provides that if the FERC grants a licensee more than five annual licenses, it must consider interim license conditions suggested by the resource agencies, and provide a written statement as to the need for the annual license and the reasons for rejecting or accepting the suggested conditions of the resource agencies. If the Commission grants more than eight annual licenses, it must provide a copy of the statement to Congress prior to issuing additional annual licenses.

Enforcement. Provides that the FERC must enforce all mandatory conditions and fishway prescriptions imposed by the resource agencies if they place direct and discernible duties on the licensee.

Establishment of procedures. Requires the FERC and the resource agencies to promulgate joint regulations for coordinating NEPA review under the relicensing process, and for FERC to establish deadlines for certain of its procedures, as well as ensuring overall coordination of activities under the relicensing process.

Study of relicenses. Requires the FERC and the resource agencies to jointly study relicenses issued since 1994, to determine how long it has taken to issue them, the additional costs to licenses, any difference in generating capacity, environmental benefits achieved, and litigation arising from the relicensing process.

Data collection. Requires the FERC and the resource agencies to jointly develop procedures for ensuring complete and accurate information concerning the time and cost to parties under Part I of the Federal Power Act.

Title VIII – Indian Energy

Comprehensive Indian energy program. Establishes a comprehensive Indian energy program at the Department of Energy to assist tribes in meeting their energy needs and expanding opportunities to develop energy resources on tribal lands. The section provides for a grant program and a loan guarantee program for Indian energy development. It also provides that federal agencies may give a preference to purchasing Indian energy.

Office of Indian Energy Policy and Programs. Establishes an Office of Indian Energy Policy and Programs within the Department of Energy. Includes conforming amendments.

Review of tribal development agreements. Provides that the Secretary of the Interior in reviewing tribal energy development agreements shall rely on analysis by qualified representatives of the Tribe, and shall complete the review within 120 days, or the agreement shall be deemed approved.

Indian Mineral Development Act review. The Secretary of the Interior shall undertake a review and make recommendations regarding tribal opportunities under the Indian Mineral Development Act.
Renewable energy study. The Secretary of Energy is required to report on energy consumption and renewable energy development potential on Indian land, including identification of barriers to the development of renewable energy on tribal land.

Title IX – Nuclear Power

Subtitle A – Price-Anderson Act Amendments

Nuclear indemnification authority. Permanently extends the Department of Energy's authority to indemnify contractors who conduct activities for the Government that pose the risk of a nuclear accident.

Indemnification of DOE contractors. Increases the maximum amount of DOE contractor indemnification to $10 billion.

Incidents outside the United States. Increases amount of indemnification DOE provides for nuclear accidents outside of the United States, and the limit on liability for nuclear incidents outside of the United States, to $500 million.

DOE liability limit. Increases the limit on liability of DOE contractors for nuclear accidents to $10 billion, as adjusted for inflation.

Reports. Requires DOE to submit a report on the need to renew the Price-Anderson Act in 2008.

Inflation adjustment. Requires DOE to adjust the amount of indemnification for its contractors for inflation every 5 years.

Civil penalties. Repeals the provisions in existing law that authorize DOE to remit civil penalties for nonprofit educational institutions and exempt certain named contractors from civil penalties. Caps the maximum amount of civil penalties that any nonprofit contractor has to pay at the total amount of fees paid by DOE to the contractor in that fiscal year.

Effective date. Applies the increases in liability limits only to nuclear accidents occurring after the date of enactment of the subtitle, and makes all other amendments made by the subtitle effective on the date of enactment.

Subtitle B – Miscellaneous Provisions

Uranium sales. Delays the sale of uranium hexafluoride and natural or low-enriched uranium from the Department of Energy's stockpile until March 24, 2009.

Reauthorization of thorium reimbursement. Increases the authorization for the Department of Energy to reimburse Kerr-McGee Chemical LLC for the cost of cleaning up thorium wastes generated pursuant to federal contracts from $140 million to $263 million.

Study of potential nuclear power sites. Directs the Secretary of Energy to conduct a study of the feasibility of building commercial nuclear power plants at existing DOE nuclear sites.

Fast Flux Test Facility. Prohibits the Department of Energy from reactivating the Fast Flux Test Facility or any other inactive DOE facility to produce or use nuclear material if DOE has determined, in a Record of Decision, that the program can be carried out at existing operating facilities.

DIVISION C – DOMESTIC OIL AND GAS PRODUCTION AND TRANSPORTATION

Title X – Oil and Gas Production

Federal onshore leasing programs for oil and gas. Authorizes appropriations for additional resource management plans, NEPA and compliance work by the BLM and Forest Service for Federal oil and gas leases.

Surface owner notification. Amends the Mineral Leasing Act to require notification to surface owners prior to commencement of surface disturbing activities on any lease.

Coalbed methane. Directs the Secretary of the Interior, in consultation with the Administrator of the EPA and the Secretaries of Energy and Agriculture, to conduct a study on the effects of coalbed methane production on water and surface resources.

Subsalt leases. Allows the MMS to suspend operations for offshore subsalt leases to allow the lessee to further analyze geologic or geophysical data when the suspension is necessary to prevent waste caused by the drilling of unnecessary wells, and to maximize recovery of hydrocarbon resources under the lease.

Acreage cap. Raises the acreage cap for oil and gas leases on Federal lands, and provides that leases held by production shall not be included in the acreage limitation.

Alternative tax and royalty policies for domestic production. Requires an evaluation of the impact existing federal and state tax and royalty policies have on development of domestic oil and gas resources and development of alternative policies that might help optimize recovery of domestic resources while ensuring environmental protection.

Title XI – Natural Gas Pipelines

Arctic gas pipeline. Provides streamlined consideration of pipeline certificates for Arctic gas pipeline at FERC and establishes a Federal coordinator for all necessary permits.

Expedited review of other pipelines. Requires the Council on Environmental Quality to develop an interagency Memorandum of Understanding to expedite the environmental review and certification of natural gas pipelines.

DIVISION D–DIVERSIFYING ENERGY DEMAND AND IMPROVING EFFICIENCY

Title XII – Fuels and Vehicles

Federal fleet requirements. Requires fleet vehicles capable of running on alternative fuels to use an increasing percentage of the renewable fuel.

Exception to HOV passenger requirements. Allows alternative fueled vehicles to use HOV lanes.

Title XIII – Assistance to Low Income Consumers, Federal Facilities, State Programs, Appliances and Industrial Efficiency

Subtitle A – Assistance to Low Income Consumers and State Programs

Increased funding for LIHEAP and weatherization. Authorizes funding of $3.4 billion for the base LIHEAP program and $1 billion for the emergency program. Also provides for $750,000 for technical assistance to the states and data gathering.

State energy programs. Authorizes increased funding; amends planning requirements and goals.

Energy-efficient schools. Authorizes a $200,000,000 grants program to improve energy efficiency in schools.

Low-income community energy efficiency pilot program. Authorizes $10 million per year for 3-year competitive program of grants to community development corporations for energy efficiency and renewable energy projects for low income urban and rural communities.

Subtitle B - Federal Energy Efficiency

Energy reduction goals, measurement and accountability. Changes the baseline for measuring federal energy performance from 1985 to 2000 and requires a 20 percent improvement by 2011; requires metering and sub-metering of federal buildings and use of real-time consumption data to measure electricity use.

Federal building performance standards. Requires establishment of revised federal building efficiency standards and use of sustainable design principles in new buildings.

Procurement of energy efficient products. Requires that agencies purchase Energy Star or FEMP designated products. Codifies and strengthens E.O. 13123.

Enhancement of authority relating to energy savings performance contracts. Clarifies the applicability of energy savings performance contracts (ESPCs) to water conservation and permits use for replacement facilities.

Extension of authority relating to energy savings performance contracts. Repeals statutory sunset of ESPC authority.

Review of energy savings performance contract program. Provides for a study of barriers to increased use of ESPCs.

Subtitle C - Industrial Efficiency and Consumer Products

Voluntary commitments to reduce industrial energy intensity. Authorizes Secretary to enter into voluntary commitments with industries to reduce energy intensity by 2 percent each year.

Appliance efficiency standards. Provides for a 13 SEER standard for central air conditioning units. Sets energy efficiency standards or provides authority to set standards for other products. Authorizes rule making on standby power.

Energy Star program. Provides statutory authority for DOE /EPA Energy Star program.

Energy labeling. Directs the Federal Trade Commission to begin the process of updating its energy labels on consumer products.

Consumer education. Authorizes a public education campaign on energy savings from maintaining energy consuming appliances.