

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To protect residential renewable energy customers from abusive rate changes.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**S. 2012**

To provide for the modernization of the energy policy of the United States, and for other purposes.

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 Mr. KING (for himself and Mr. REID) to the amendment (No. 2953) proposed by Ms. MURKOWSKI

Viz:

1 At the end of title III, add the following:

2 **Subtitle I—Residential Renewable**  
3 **Energy Generation**

4 **SEC. 3801. EXISTING ON-SITE GENERATING CUSTOMERS.**

5 (a) IN GENERAL.—Section 111(d) of the Public Util-  
6 ity Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))  
7 is amended by adding at the end the following:

8 “(20) CONSUMER PROTECTIONS FOR ON-SITE  
9 GENERATING FACILITIES.—

10 “(A) STANDARD.—Once an electric con-  
11 sumer has been offered and has accepted net

1 metering service as described in paragraph (11)  
2 from an electric utility, the State regulatory au-  
3 thority with ratemaking authority over the elec-  
4 tric utility and the electric utility may not  
5 change the rate classification of the consumer  
6 unless the State regulatory authority or electric  
7 utility, as applicable, demonstrates, in an evi-  
8 dentiary hearing in a general rate case, that the  
9 current and future net benefits of the net me-  
10 tered system to the distribution, transmission,  
11 and generation systems of the electric utility  
12 are less than the full retail rate.

13 “(B) RESTRICTION.—A State regulatory  
14 authority or electric utility may not impose a  
15 new or higher rate (such as a new fee or de-  
16 mand charge) on an existing electric consumer  
17 taking net metering service as described in  
18 paragraph (11) from an electric utility unless  
19 the new or higher rate is also charged to all  
20 electric consumers in the same rate class of the  
21 electric utility.

22 “(C) EFFECT.—Nothing in this paragraph  
23 prevents an electric utility from charging rates  
24 to each rate class designed to recover all rea-

1           sonable costs to the electric utility of providing  
2           service to the electric consumers in that class.”.

3           (b) COMPLIANCE.—Section 112(b) of the Public Util-  
4   ity Regulatory Policies Act of 1978 (16 U.S.C. 2622(b))  
5   is amended by adding at the end the following:

6           “(7) Before changing the rate classification of,  
7           or imposing a new or higher rate on, an existing  
8           electric consumer taking net metering service as de-  
9           scribed in section 111(d)(11), a State regulatory au-  
10          thority (with respect to each electric utility for which  
11          the authority has ratemaking authority) or a non-  
12          regulated electric utility shall, with respect to the  
13          standard established by paragraph (20) of section  
14          111(d)—

15                  “(A) conduct a hearing and complete the  
16                  consideration required under that paragraph;  
17                  and

18                  “(B) make the determination referred to in  
19                  section 111 with respect to the standard estab-  
20                  lished by paragraph (20) of section 111(d).”.

21   **SEC. 3802. DISTRIBUTED ENERGY RESOURCES.**

22           (a) IN GENERAL.—Section 111(d) of the Public Util-  
23   ity Regulatory Policies Act of 1978 (16 U.S.C. 2621(d))  
24   (as amended by section 3801(a)) is amended by adding  
25   at the end the following:

1 “(21) DISTRIBUTED ENERGY RESOURCES.—

2 “(A) DEFINITION OF DISTRIBUTED EN-  
3 ERGY RESOURCE.—In this paragraph, the term  
4 ‘distributed energy resource’ means an electric  
5 energy supply resource, technology, or service  
6 that—

7 “(i) is interconnected to the distribu-  
8 tion system of an electric utility; and

9 “(ii) supplies electric energy to the  
10 distribution system by generating or stor-  
11 ing energy.

12 “(B) REQUIREMENT.—If a State regu-  
13 latory authority considers, through a rate pro-  
14 ceeding or another mechanism (such as consid-  
15 eration of fixed or minimum charges or any  
16 other mechanism described in subparagraph  
17 (C)), modifying the treatment of future net en-  
18 ergy metering customers, the State regulatory  
19 authority shall take into account the consider-  
20 ations in subparagraph (C).

21 “(C) CONSIDERATIONS.—The consider-  
22 ations referred to in subparagraph (B) in-  
23 clude—

24 “(i) pricing for energy—

25 “(I) sold to an electric utility; or

1                                   “(II) purchased from an electric  
2                                   utility;  
3                                   “(ii) capacity;  
4                                   “(iii) the provision of ancillary serv-  
5                                   ices;  
6                                   “(iv) the societal value of distributed  
7                                   energy resources;  
8                                   “(v) transmission and distribution  
9                                   losses; and  
10                                  “(vi) any other benefits that the State  
11                                  regulatory authority considers to be appro-  
12                                  priate.”.

13           (b) COMPLIANCE.—Section 112(b) of the Public Util-  
14   ity Regulatory Policies Act of 1978 (16 U.S.C. 2622(b))  
15   (as amended by section 3801(b)) is amended by adding  
16   at the end the following:

17                                  “(8) Before considering, through a rate pro-  
18                                  ceeding or other mechanism, modifying the treat-  
19                                  ment of any future net metering customer, a State  
20                                  regulatory authority (with respect to each electric  
21                                  utility for which the authority has ratemaking au-  
22                                  thority) or a nonregulated electric utility shall, with  
23                                  respect to the standard established by paragraph  
24                                  (21) of section 111(d)—

1                   “(A) conduct a hearing and complete the  
2                   consideration required under that paragraph;  
3                   and

4                   “(B) make the determination referred to in  
5                   section 111 with respect to the standard estab-  
6                   lished by paragraph (21) of section 111(d).”.