

# HOUSE BILL REPORT

## SJM 8000

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**As Passed House - Amended:**

April 9, 2003

**Brief Description:** Requesting the federal energy regulatory commission to withdraw a proposal affecting electricity.

**Sponsors:** By Senators Fraser, Morton, Hewitt, Keiser and Hale.

**Brief History:**

**Committee Activity:**

Technology, Telecommunications & Energy: 3/25/03, 4/2/03 [DPA].

**Floor Activity:**

Passed House - Amended: 4/9/03, 96-0.

**Brief Summary of Bill  
(As Amended by House)**

- Requests that the Federal Energy Regulatory Commission withdraw its Notice of Proposed Rulemaking to establish a standard market design for electricity or that the President and Congress prevent the rulemaking from going forward.

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### HOUSE COMMITTEE ON TECHNOLOGY, TELECOMMUNICATIONS & ENERGY

**Majority Report:** Do pass as amended. Signed by 16 members: Representatives Morris, Chair; Ruderman, Vice Chair; Sullivan, Vice Chair; Crouse, Ranking Minority Member; Nixon, Assistant Ranking Minority Member; Anderson, Blake, Bush, Delvin, Hudgins, Kirby, McMahan, Romero, Tom, Wallace and Wood.

**Staff:** Pam Madson (786-7166).

**Background:**

In July 2002 the Federal Energy Regulatory Commission (FERC) proposed a rule that would establish a standard market design (SMD) for the wholesale electricity market and some retail market activities. To support its rule, the FERC argues that a single market model will work for the entire nation. The proposal requires a competitive market-based structure that changes the way the western transmission system is operated, expands the FERC's authority in state decisions regarding resource adequacy and demand response,

and affects the regional benefits derived from the Federal Columbia River Power System.

The Pacific Northwest electricity system is unique when compared to the rest of the nation. Factors include substantial public ownership of the electrical transmission lines and power generation, a hydro-based system where the amount of energy generated is limited by the amount of water available, complex legal arrangements for multiple uses of the water to meet diverse goals, and a system that requires substantial coordination among generation facility owners and utilities.

Members of Congress, western state Governors, and power interests have argued that the SMD proposal would increase costs to consumers in the region and decrease reliability of the electric power system. The recently passed federal omnibus spending bill included language that requires the Secretary of the Department of Energy to independently analyze the impact on electricity prices and system reliability under current conditions and under the SMD before the rule can be finalized.

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**Summary of Amended Bill:**

The Legislature requests that the Federal Energy Regulatory Commission (FERC) leave the Northwest electricity system in place and withdraw its Notice of Proposed Rulemaking establishing a Standard Market Design for electricity.

In the event that the FERC does not withdraw its proposal, the Legislature further requests that the President and Congress take action to prevent the FERC from proceeding with its proposal establishing a standard market design.

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**Appropriation:** None.

**Fiscal Note:** Not Requested.

**Testimony For:** This memorial is part of a package of three that deal with the Pacific Northwest electrical system. This memorial asks for withdrawal of the Federal Energy Regulatory Commission's (FERC) proposed rule on standard market design. The Pacific Northwest electrical system is unique from other parts of the county and is based on cooperation, coordination, and balancing of many different interests. The FERC proposal is broadly opposed by those in the Pacific Northwest. It is appropriate for the Legislature to speak out in opposition to this proposal. Congress is listening to the states on this matter because it involves states rights to establish electricity policy. The law has been that the states have jurisdiction over retail electricity and the FERC has authority over wholesale electricity. In this proposal, the FERC is asserting jurisdiction over components of retail service. The actual rule is titled a "Remedy for Undue Discrimination." The FERC asserts as a finding as part of this rule that undue

discrimination exists in electricity markets and it is when a traditional utility shows preference for its own customers over power traders in terms of access to transmission. Access should go to the person who values it the most. Allowing a utility to use transmission for its own customers is the law in most states. Utility's in this state have an obligation to serve its customers. The utility's customers have paid for this transmission. Under the rule, the transmission component will be taken from the operational control of the utility and the regulatory control of the state and given to an Independent Transmission Provider which is a private corporation. This is not good for the northwest nor for the state-federal dynamic. The state is in a better position to determine state retail electric policy. California had a bad design for its retail electric service. The FERC approved it and stood by for nine months and took no action. This demonstrates that a five member commission cannot be expected to be responsive to conditions and customers in the west. The northwest has a good system and we should preserve it. This is timely in that Congress is considering bills on energy. Attempts are being made to clarify the FERC's jurisdiction.

**Testimony Against:** None.

**Testified:** Senator Fraser, prime sponsor; and Marilyn Showalter, Washington Utilities and Transportation Commission.