

**Amendment To H.R. 4614, As Reported  
Offered By Ms. Eshoo, Mr. Inslee, Mr. DeFazio**

**(Energy and Water Development Appropriations, 2005)**

Page 29, after line 13, insert the following:

1       The Congress finds that—

2           (1) incontrovertible evidence has come to light  
3       that certain sellers of wholesale electricity, including  
4       Enron, manipulated energy markets in order to  
5       overcharge electricity consumers in the Western  
6       United States;

7           (2) these overcharges have adversely affected  
8       state economies, families, small business, and other  
9       consumers;

10          (3) the Federal Energy Regulatory Commission  
11       has failed to expose this wrongdoing in a timely  
12       manner and has failed to take effective action to  
13       make consumers whole, and has undercut the ability  
14       of States and other parties to pursue relief by with-  
15       holding critical documents and disaggregating claims  
16       into dozens of small proceedings; and

17          (4) the Federal Energy Regulatory Commission  
18       should fully disclose evidence in its possession, fully  
19       involve States, and ensure that refunds are ordered



1 for any time period in which market manipulation  
2 occurred.

3 The Federal Energy Regulatory Commission shall  
4 publicly disclose all documents and evidence obtained in  
5 the following proceedings: Western Energy Markets:  
6 Enron Investigation (Docket No. PA02-2), the California  
7 Refund case (Docket No. EL00-95), the Anomalous Bid-  
8 ding Investigation (Docket No. IN03-10), the Physical  
9 Withholding Investigation, and the Gaming Investigation  
10 (Dockets EL03-157 et al, EL03-180 et al).

11 The Federal Energy Regulatory Commission shall  
12 allow States affected by market manipulation, acting  
13 through their public utility commissions, to fully partici-  
14 pate in settlement negotiations regarding disgorgement of  
15 profits. The Federal Energy Regulatory Commission shall  
16 consolidate the various refund and disgorgement matters  
17 related to activity in the Western markets since May 2000  
18 into a single proceeding in order to facilitate effective par-  
19 ticipation by states and other parties. No settlement shall  
20 be adopted by the Commission if it is opposed by any state  
21 whose public utility customers have an economic interest  
22 in the results of the settlement.

23 Section 206(b) of the Federal Power Act is amended  
24 as follows:



1           (1) By amending the first sentence to read as  
2 follows: "In any proceeding under this section, the  
3 refund effective date shall be the date of the filing  
4 of a complaint or the date of the Commission motion  
5 initiating the proceeding, except that in the case of  
6 a complaint with regard to market-based rates, the  
7 Commission shall establish such earlier refund effec-  
8 tive date as is necessary to provide a refund of any  
9 rate or charge that is not just and reasonable, as de-  
10 termined by the Commission. To the extent nec-  
11 essary to achieve the purposes of this section, the  
12 Commission shall initiate new proceedings, including  
13 investigations, and issue appropriate refunds."

14           (2) By striking the second and third sentences.

15           (3) By striking out "the refund effective date or  
16 by" and ", whichever is earlier," in the fifth sen-  
17 tence.

18           (4) In the seventh sentence by striking  
19 "through a date fifteen months after such refund ef-  
20 fective date" and insert "and prior to the conclusion  
21 of the proceeding" and by striking the proviso.

