1979 through 1982, and $125,000,000 in fiscal year 1983, such sums to remain available until expended. Not more than 3 per centum of the funds authorized in any fiscal year may be used for grants for the development of local park and recreation recovery action programs pursuant to sections 2506(a) and 2506(c) of this title, and not more than 10 per centum may be used for innovation grants pursuant to section 2505 of this title. Grants made under this chapter for projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated in any fiscal year. For the authorizations made in this section, any amounts authorized but not appropriated in any fiscal year shall remain available for appropriation in succeeding fiscal years.

Notwithstanding any other provision of this Act, or any other law, or regulation, there is further authorized to be appropriated $250,000 for each of the fiscal years 1979 through 1983, such sums to remain available until expended, to each of the insular areas. Such sums will not be subject to the matching provisions of this section, and may only be subject to such conditions, reports, plans, and agreements, if any, as determined by the Secretary.

(b) Program support

Not more than 25 percent of the amounts made available under this chapter to any local government may be used for program support.

(Pub. L. 95–625, title X, § 1013, Nov. 10, 1978, 92 Stat. 3544; Pub. L. 98–454, title VI, § 601(a), Oct. 5, 1984, 98 Stat. 1736; Pub. L. 103–322, title III, § 31505(a), Sept. 13, 1994, 108 Stat. 1889.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 95–625, Nov. 10, 1978, 92 Stat. 3467, as amended, known as the National Parks and Recreation Act of 1978. For complete classification of the Act to the Code, see Short Title of 1978 Amendment note set out under section 1 of this title and Tables.

CODIFICATION

In subsec. (a), ''section 2505 of this title'' was in the original ''section 6 of this title'' and was editorially translated as section 2505 of this title to reflect the probable intent of Congress in view of the subject matter of section 2505 which relates to innovative grants.

AMENDMENTS

1994—Pub. L. 103–322 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

1984—Pub. L. 98–454 substituted ''section'' for ''subsection'' after ''For the authorizations made in this''.

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

§ 2513. Limitation of use of funds

No funds available under this chapter shall be used for the acquisition of land or interests in land.

(Pub. L. 95–625, title X, § 1014, Nov. 10, 1978, 92 Stat. 3544.)

§ 2514. Sunset and reporting provisions; reports to Congress

(a) Within ninety days of the expiration of this authority, the Secretary shall report to the Congress on the overall impact of the urban park and recreation recovery program.

(b) Repealed. Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(M), Nov. 12, 1996, 110 Stat. 4196.

(Pub. L. 95–625, title X, § 1015, Nov. 10, 1978, 92 Stat. 3544; Pub. L. 104–333, div. I, title VIII, § 814(d)(1)(M), Nov. 12, 1996, 110 Stat. 4196.)

AMENDMENTS

1996—Subsec. (b). Pub. L. 104–333 struck out subsec. (b) which read as follows: ''On December 31, 1979, and on the same date in each year that the recovery program is funded, the Secretary shall report to the Congress on the annual achievements of the innovation grant program, with emphasis on the nationwide implications of successful innovation projects.''

''SECRETARY'' DEFINED

Secretary means the Secretary of the Interior, see section 2 of Pub. L. 95–625, set out as a note under section 2503 of this title.

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CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 10 section 2867; title 42 sections 6807, 7375.

§ 2601. Findings

The Congress finds that the protection of the public health, safety, and welfare, the preservation of national security, and the proper exercise of congressional authority under the Constitution to regulate interstate commerce require—

(1) a program providing for increased conservation of electric energy, increased efficiency in the use of facilities and resources by electric utilities, and equitable retail rates for electric consumers,

(2) a program to improve the wholesale distribution of electric energy, the reliability of electric service, the procedures concerning consideration of wholesale rate applications before the Federal Energy Regulatory Commission, the participation of the public in matters before the Commission, and to provide other measures with respect to the regulation of the wholesale sale of electric energy,

(3) a program to provide for the expeditious development of hydroelectric potential at existing small dams to provide needed hydroelectric power,

(4) a program for the conservation of natural gas while insuring that rates to natural gas consumers are equitable,

(5) a program to encourage the development of crude oil transportation systems, and

(6) the establishment of certain other authorities as provided in title VI of this Act.

(Pub. L. 95–617, § 2, Nov. 9, 1978, 92 Stat. 3119.)

REFERENCES IN TEXT

This Act, referred to in par. (6), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. Title VI of this Act enacted sections 824a–4 and 2645 of this title and sections 717x to 717z of Title 15, Commerce and Trade, amended section 717f of Title 15 and sections 1311, 1312, and 1314 to 1316 of Title 30, Mineral Lands and Mining, and enacted provisions set out as a note under section 2621 of this title. For complete classification of this Act to the Code, see Short Title note below and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95–617 which comprises this chapter.

SHORT TITLE

Section 1 of Pub. L. 95–617 provided that: ''This Act [enacting this chapter, and sections 823a, 824a–1 to 824a–4, 824i to 824k, 825q–1, and 2701 to 2708 of this title, sections 717x to 717z and 3201 to 3211 of Title 15, Commerce and Trade, section 6808 of Title 42, The Public Health and Welfare, and sections 2001 to 2012 of Title 43, Public Lands, amending sections 796, 824, 824a, 824d, and 825d of this title, section 717f of Title 15, sections 1311, 1312, and 1314 to 1316 of Title 30, Mineral Lands and Mining, and sections 6801 to 6807 of Title 42, and enacting provisions set out as notes under sections 824, 824a, 824d, 825d, and 2621 of this title] may be cited as the 'Public Utility Regulatory Policies Act of 1978'.''

§ 2602. Definitions

As used in this Act, except as otherwise specifically provided—

(1) The term ''antitrust laws'' includes the Sherman Antitrust Act (15 U.S.C. 1 and following), the Clayton Act (15 U.S.C. 12 and following), the Federal Trade Commission Act (15 U.S.C. 14[41] and following), the Wilson Tariff Act (15 U.S.C. 8 and 9), and the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A).

(2) The term ''class'' means, with respect to electric consumers, any group of such consumers who have similar characteristics of electric energy use.

(3) The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) The term ''electric utility'' means any person, State agency, or Federal agency, which sells electric energy.

(5) The term ''electric consumer'' means any person, State agency, or Federal agency, to which electric energy is sold other than for purposes of resale.

(6) The term ''evidentiary hearing'' means—

(A) in the case of a State agency, a proceeding which (i) is open to the public, (ii) includes notice to participants and an opportunity for such participants to present direct and rebuttal evidence and to cross-examine witnesses, (iii) includes a written decision, based upon evidence appearing in a written record of the proceeding, and (iv) is subject to judicial review;

(B) in the case of a Federal agency, a proceeding conducted as provided in sections 554, 556, and 557 of title 5; and

(C) in the case of a proceeding conducted by any entity other than a State or Federal agency, a proceeding which conforms, to the extent appropriate, with the requirements of subparagraph (A).

(7) The term ''Federal agency'' means an executive agency (as defined in section 105 of title 5).

(8) The term ''load management technique'' means any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including ripple or radio control mechanisms, and other types of interruptible electric service, energy storage devices, and load-limiting devices.

(9) The term ''nonregulated electric utility'' means any electric utility other than a State regulated electric utility.

(10) The term ''rate'' means (A) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (B) any rule, regulation, or practice respecting any such rate, charge, or classification, and (C) any contract pertaining to the sale of electric energy to an electric consumer.

(11) The term ''ratemaking authority'' means authority to fix, modify, approve, or disapprove rates.

(12) The term ''rate schedule'' means the designation of the rates which an electric utility charges for electric energy.

(13) The term ''sale'' when used with respect to electric energy includes any exchange of electric energy.

(14) The term ''Secretary'' means the Secretary of Energy.

(15) The term ''State'' means a State, the District of Columbia, and Puerto Rico.

(16) The term ''State agency'' means a State, political subdivision thereof, and any agency or instrumentality of either.

(17) The term ''State regulatory authority'' means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

(18) The term ''State regulated electric utility'' means any electric utility with respect to which a State regulatory authority has ratemaking authority.

(19) The term ''integrated resource planning'' means, in the case of an electric utility, a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

(20) The term ''system cost'' means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, distribution, transportation, utilization, waste management, and environmental compliance.

(21) The term ''demand side management'' includes load management techniques.

(Pub. L. 95–617, § 3, Nov. 9, 1978, 92 Stat. 3119; Pub. L. 102–486, title I, § 111(d), Oct. 24, 1992, 106 Stat. 2796.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Sherman Antitrust Act (15 U.S.C. 1 and following), referred to in par. (1), is act July 2, 1890, ch. 647, 26 Stat. 209, as amended, which enacted sections 1 to 7 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1 of Title 15 and Tables.

The Clayton Act (15 U.S.C. 12 and following), referred to in par. (1), is act Oct. 15, 1914, ch. 323, 38 Stat. 730, as amended, which is classified generally to sections 12, 13, 14 to 19, 20, 21, and 22 to 27 of Title 15, Commerce and Trade, and sections 52 and 53 of Title 29, Labor. For further details and complete classification of this Act to the Code, see References in Text note set out under section 12 of Title 15 and Tables.

The Federal Trade Commission Act (15 U.S.C. 14 and following), referred to in par. (1), is act Sept. 26, 1914, ch. 311, 38 Stat. 717, as amended, which is classified generally to subchapter I (§ 41 et seq.) of chapter 2 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 58 of Title 15 and Tables.

The Wilson Tariff Act (15 U.S.C. 8 and 9), referred to in par. (1), is sections 73 to 77 of act Aug. 27, 1894, ch. 349, 28 Stat. 570. Sections 73 to 76 enacted sections 8 to 11 of Title 15, Commerce and Trade. Section 77 of said Act was not classified to the Code. For complete classification of this Act to the Code, see Short Title note under section 8 of Title 15 and Tables.

Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21A), referred to in par. (1), is act June 19, 1936, ch. 592, 49 Stat. 1526, popularly known as the Robinson-Patman Antidiscrimination Act, which enacted sections 13a, 13b, and 21a of Title 15, Commerce and Trade, and amended section 13 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 13 of Title 15 and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95–617 which comprises this chapter.

AMENDMENTS

1992—Pars. (19) to (21). Pub. L. 102–486 added pars. (19) to (21).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 796, 2627 of this title; title 42 sections 2296b–7, 6807, 6807a, 7276c.

§ 2603. Relationship to antitrust laws

Nothing in this Act or in any amendment made by this Act affects—

(1) the applicability of the antitrust laws to any electric utility or gas utility (as defined in section 3202 of title 15), or

(2) any authority of the Secretary or of the Commission under any other provision of law (including the Federal Power Act [16 U.S.C. 791a et seq.] and the Natural Gas Act [15 U.S.C. 717 et seq.]) respecting unfair methods of competition or anticompetitive acts or practices.

(Pub. L. 95–617, § 4, Nov. 9, 1978, 92 Stat. 3120.)

REFERENCES IN TEXT

This Act, referred to in text, is act Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

The Federal Power Act, referred to in par. (2), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§ 791a et seq.) of this title. For complete classification of this Act to the Code, see section 791a of this title and Tables.

The Natural Gas Act, referred to in par. (2), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§ 717 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 717w of Title 15 and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95–617 which comprises this chapter.

SUBCHAPTER I—RETAIL REGULATORY POLICIES FOR ELECTRIC UTILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2633, 2634 of this title.

§ 2611. Purposes

The purposes of this chapter are to encourage—

(1) conservation of energy supplied by electric utilities;

(2) the optimization of the efficiency of use of facilities and resources by electric utilities; and

(3) equitable rates to electric consumers.

(Pub. L. 95–617, title I, § 101, Nov. 9, 1978, 92 Stat. 3120.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of Title I to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 824a–4 of this title.

§ 2612. Coverage

(a) Volume of total retail sales

This chapter applies to each electric utility in any calendar year, and to each proceeding relating to each electric utility in such year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

(b) Exclusion of wholesale sales

The requirements of this chapter do not apply to the operations of an electric utility, or to proceedings respecting such operations, to the extent that such operations or proceedings relate to sales of electric energy for purposes of resale.

(c) List of covered utilities

Before the beginning of each calendar year, the Secretary shall publish a list identifying each electric utility to which this chapter applies during such calendar year. Promptly after publication of such list each State regulatory authority shall notify the Secretary of each electric utility on the list for which such State regulatory authority has ratemaking authority.

(Pub. L. 95–617, title I, § 102, Nov. 9, 1978, 92 Stat. 3121.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2613, 2642 of this title.

§ 2613. Federal contracts

Notwithstanding the limitation contained in section 2612(b) of this title, no contract between a Federal agency and any electric utility for the sale of electric energy by such Federal agency for resale which is entered into or renewed after November 9, 1978, may contain any provision which will have the effect of preventing the implementation of any requirement of subchapter II or III of this chapter. Any provision in any such contract which has such effect shall be null and void.

(Pub. L. 95–617, title I, § 103, Nov. 9, 1978, 92 Stat. 3121.)

SUBCHAPTER II—STANDARDS FOR ELECTRIC UTILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2613, 2631, 2632, 2633, 2634, 2642 of this title.

§ 2621. Consideration and determination respecting certain ratemaking standards

(a) Consideration and determination

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall consider each standard established by subsection (d) of this section and make a determination concerning whether or not it is appropriate to implement such standard to carry out the purposes of this chapter. For purposes of such consideration and determination in accordance with subsections (b) and (c) of this section, and for purposes of any review of such consideration and determination in any court in accordance with section 2633 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to imple-

ment any such standard, pursuant to its authority under otherwise applicable State law.

(b) Procedural requirements for consideration and determination

(1) The consideration referred to in subsection (a) of this section shall be made after public notice and hearing. The determination referred to in subsection (a) of this section shall be—

(A) in writing,

(B) based upon findings included in such determination and upon the evidence presented at the hearing, and

(C) available to the public.

(2) Except as otherwise provided in paragraph (1), in the second sentence of section 2622(a) of this title, and in sections 2631 and 2632 of this title, the procedures for the consideration and determination referred to in subsection (a) of this section shall be those established by the State regulatory authority or the nonregulated electric utility.

(c) Implementation

(1) The State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

(A) implement any such standard determined under subsection (a) of this section to be appropriate to carry out the purposes of this chapter, or

(B) decline to implement any such standard.

(2) If a State regulatory authority (with respect to each electric utility for which it has ratemaking authority) or nonregulated electric utility declines to implement any standard established by subsection (d) of this section which is determined under subsection (a) of this section to be appropriate to carry out the purposes of this chapter, such authority or nonregulated electric utility shall state in writing the reasons therefor. Such statement of reasons shall be available to the public.

(3) If a State regulatory authority implements a standard established by subsection (d)(7) or (8) of this section, such authority shall—

(A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and

(B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.

(d) Establishment

The following Federal standards are hereby established:

(1) Cost of service

Rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class, as determined under section 2625(a) of this title.

(2) Declining block rates

The energy component of a rate, or the amount attributable to the energy component in a rate, charged by any electric utility for providing electric service during any period to any class of electric consumers may not decrease as kilowatt-hour consumption by such class increases during such period except to the extent that such utility demonstrates that the costs to such utility of providing electric service to such class, which costs are attributable to such energy component, decrease as such consumption increases during such period.

(3) Time-of-day rates

The rates charged by any electric utility for providing electric service to each class of electric consumers shall be on a time-of-day basis which reflects the costs of providing electric service to such class of electric consumers at different times of the day unless such rates are not cost-effective with respect to such class, as determined under section 2625(b) of this title.

(4) Seasonal rates

The rates charged by an electric utility for providing electric service to each class of electric consumers shall be on a seasonal basis which reflects the costs of providing service to such class of consumers at different seasons of the year to the extent that such costs vary seasonally for such utility.

(5) Interruptible rates

Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service to the class of which such consumer is a member.

(6) Load management techniques

Each electric utility shall offer to its electric consumers such load management techniques as the State regulatory authority (or the nonregulated electric utility) has determined will—

(A) be practicable and cost-effective, as determined under section 2625(c) of this title,

(B) be reliable, and

(C) provide useful energy or capacity management advantages to the electric utility.

(7) Integrated resource planning

Each electric utility shall employ integrated resource planning. All plans or filings before a State regulatory authority to meet the requirements of this paragraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

(8) Investments in conservation and demand management

The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the

construction of new generation, transmission, and distribution equipment. Such energy conservation, energy efficiency resources and other demand side management measures shall be appropriately monitored and evaluated.

(9) Energy efficiency investments in power generation and supply

The rates charged by any electric utility shall be such that the utility is encouraged to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation, transmission and distribution. In considering regulatory changes to achieve the objectives of this paragraph, State regulatory authorities and nonregulated electric utilities shall consider the disincentives caused by existing ratemaking policies, and practices, and consider incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution equipment.

(10) Consideration of the effects of wholesale power purchases on utility cost of capital; effects of leveraged capital structures on the reliability of wholesale power sellers; and assurance of adequate fuel supplies

(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall perform a general evaluation of:

(i) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities;

(ii) whether the use by exempt wholesale generators (as defined in section 79z–5a of title 15) of capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

(iii) whether to implement procedures for the advance approval or disapproval of the purchase of a particular long-term wholesale power supply; and

(iv) whether to require as a condition for the approval of the purchase of power that there be reasonable assurances of fuel supply adequacy.

(B) For purposes of implementing the provisions of this paragraph, any reference contained in this section to November 9, 1978, shall be deemed to be a reference to October 24, 1992.

(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale generators, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

(D) Notwithstanding section 2634 of this title and paragraphs (1) and (2) of section 2622(a) of this title, each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to October 24, 1992.

(E) Notwithstanding subsections (b) and (c) of section 2622 of this title, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after October 24, 1992.

(Pub. L. 95–617, title I, § 111, Nov. 9, 1978, 92 Stat. 3121; Pub. L. 102–486, title I, § 111(a), (b), title VII, § 712, Oct. 24, 1992, 106 Stat. 2795, 2910.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c), was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of title I to the Code, see Tables.

AMENDMENTS

1992—Subsec. (c)(3). Pub. L. 102–486, § 111(b), added par. (3).

Subsec. (d)(7) to (9). Pub. L. 102–486, § 111(a), added pars. (7) to (9).

Subsec. (d)(10). Pub. L. 102–486, § 712, added par. (10).

STATE AUTHORITIES; CONSTRUCTION

Nothing in amendment by section 712 of Pub. L. 102–486 to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102–486, set out as a note under section 79 of Title 15, Commerce and Trade.

REPORT TO PRESIDENT AND CONGRESS ON ENCOURAGEMENT OF INTEGRATED RESOURCE PLANNING AND INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY BY ELECTRIC UTILITIES

Section 111(e) of Pub. L. 102–486 provided that: ''Not later than 2 years after the date of the enactment of this Act [Oct. 24, 1992], the Secretary shall transmit a report to the President and to the Congress containing—

''(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (7), (8), and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 [16 U.S.C. 2621(d)(7)–(9)];

''(2) an evaluation by the Secretary of whether and to what extent, integrated resource planning is likely to result in—

''(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

''(B) enhanced or reduced reliability of electric service; and

''(C) increased or decreased dependence on particular energy resources; and

''(3) a survey of practices and policies under which electric cooperatives prepare integrated resource

plans, submit such plans to the Rural Electrification Administration and the extent to which such integrated resource planning is reflected in rates charged to customers.

The report shall include an analysis prepared in conjunction with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand side management measures and whether any unfair, deceptive, or predatory acts exist, or are likely to exist, from implementation of such programs.''

[For provisions relating to further requirements as to subject matter contained in report under section 111(e) of Pub. L. 102–486, set out above, see section 115(e) of Pub. L. 102–486, set out as a note under section 3203 of Title 15, Commerce and Trade.]

STUDY CONCERNING ELECTRIC RATES OF STATE UTILITY AGENCIES

Section 601 of Pub. L. 95–617 directed the Secretary to conduct a study concerning the effects of provisions of Federal law on rates established by State utility agencies and to submit a report to Congress on the results of such study not later than 1 year after Nov. 9, 1978.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 831m–1, 2622, 2624, 2625, 2626, 2627, 2641, 2643 of this title; title 42 sections 6349, 6807a, 7276b.

§ 2622. Obligations to consider and determine

(a) Request for consideration and determination

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility may undertake the consideration and make the determination referred to in section 2621 of this title with respect to any standard established by section 2621(d) of this title in any proceeding respecting the rates of the electric utility. Any participant or intervenor (including an intervenor referred to in section 2631 of this title) in such a proceeding may request, and shall obtain, such consideration and determination in such proceeding. In undertaking such consideration and making such determination in any such proceeding with respect to the application to any electric utility of any standard established by section 2621(d) of this title, a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility may take into account in such proceeding—

(1) any appropriate prior determination with respect to such standard—

(A) which is made in a proceeding which takes place after November 9, 1978, or

(B) which was made before such date (or is made in a proceeding pending on such date) and complies, as provided in section 2634 of this title, with the requirements of this chapter; and

(2) the evidence upon which such prior determination was based (if such evidence is referenced in such proceeding).

(b) Time limitations

(1) Not later than 2 years after November 9, 1978 (or after October 24, 1992, in the case of standards under paragraphs (7), (8), and (9) of section 2621(d) of this title), each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall commence the consideration referred to in section 2621 of this title, or set a hearing date for such consideration, with respect to each standard established by section 2621(d) of this title.

(2) Not later than three years after November 9, 1978 (or after October 24, 1992, in the case of standards under paragraphs (7), (8), and (9) of section 2621(d) of this title), each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall complete the consideration, and shall make the determination, referred to in section 2621 of this title with respect to each standard established by section 2621(d) of this title.

(c) Failure to comply

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility shall undertake the consideration, and make the determination, referred to in section 2621 of this title with respect to each standard established by section 2621(d) of this title in the first rate proceeding commenced after the date three years after November 9, 1978, respecting the rates of such utility if such State regulatory authority or nonregulated electric utility has not, before such date, complied with subsection (b)(2) of this section with respect to such standard.

(Pub. L. 95–617, title I, § 112, Nov. 9, 1978, 92 Stat. 3122; Pub. L. 102–486, title I, § 111(c), Oct. 24, 1992, 106 Stat. 2795.)

CODIFICATION

''October 24, 1992'', referred to in subsec. (b)(1), (2), was in the original ''the enactment of the Comprehensive National Energy Policy Act'', and was translated as meaning the enactment of the Energy Policy Act of 1992, Pub. L. 102–486, to reflect the probable intent of Congress. The Comprehensive National Energy Policy Act was the original short title of H.R. 776, which was enacted into law on Oct. 24, 1992, as Pub. L. 102–486.

AMENDMENTS

1992—Subsec. (b)(1), (2). Pub. L. 102–486 inserted ''(or after October 24, 1992, in the case of standards under paragraphs (7), (8), and (9) of section 2621(d) of this title)''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2621 of this title.

§ 2623. Adoption of certain standards

(a) Adoption of standards

Not later than two years after November 9, 1978, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall provide public notice and conduct a hearing respecting the standards established by subsection (b) of this section and, on the basis of such hearing, shall—

(1) adopt the standards established by subsection (b) of this section (other than paragraph (4) thereof) if, and to the extent, such

authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this chapter, is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) of this section if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 2633 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law.

(b) Establishment

The following Federal standards are hereby established:

(1) Master metering

To the extent determined appropriate under section 2625(d) of this title, master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this chapter.

(2) Automatic adjustment clauses

No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 2625(e) of this title.

(3) Information to consumers

Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 2625(f) of this title.

(4) Procedures for termination of electric service

No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in section 2625(g) of this title.

(5) Advertising

No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 2625(h) of this title.

(c) Procedural requirements

Each State regulatory authority (with respect to each electric utility for which it has ratemaking authority) and each nonregulated electric utility, within the two-year period specified in subsection (a) of this section, shall (1) adopt, pursuant to subsection (a) of this section, each of the standards established by subsection (b) of this section, or, (2) with respect to any such standard which is not adopted, such authority or nonregulated electric utility shall state in writing that it has determined not to adopt such standard, together with the reasons for such determination. Such statement of reasons shall be available to the public.

(Pub. L. 95–617, title I, § 113, Nov. 9, 1978, 92 Stat. 3123.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2625, 2626, 2627, 2641 of this title.

§ 2624. Lifeline rates

(a) Lower rates

No provision of this chapter prohibits a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or a nonregulated electric utility from fixing, approving, or allowing to go into effect a rate for essential needs (as defined by the State regulatory authority or by the nonregulated electric utility, as the case may be) of residential electric consumers which is lower than a rate under the standard referred to in section 2621(d)(1) of this title.

(b) Determination

If any State regulated electric utility or nonregulated electric utility does not have a lower rate as described in subsection (a) of this section in effect two years after November 9, 1978, the State regulatory authority having ratemaking authority with respect to such State regulated electric utility or the nonregulated electric utility, as the case may be, shall determine, after an evidentiary hearing, whether such a rate should be implemented by such utility.

(c) Prior proceedings

Section 2634 of this title shall not apply to the requirements of this section.

(Pub. L. 95–617, title I, § 114, Nov. 9, 1978, 92 Stat. 3124.)

§ 2625. Special rules for standards

(a) Cost of service

In undertaking the consideration and making the determination under section 2621 of this title with respect to the standard concerning cost of service established by section 2621(d)(1) of this title, the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated electric utility). Such methods shall to the maximum extent practicable—

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer demand, and energy components of cost. In prescribing such methods, such State regulatory authority or nonregulated electric utility shall take into account the extent to which total costs to an electric utility are likely to change if—

(A) additional capacity is added to meet peak demand relative to base demand; and

(B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) Time-of-day rates

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for time-of-day rates established by section 2621(d)(3) of this title, a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each such class if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering costs and other costs associated with the use of such rates.

(c) Load management techniques

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for load management techniques established by section 2621(d)(6) of this title, a load management technique shall be determined, by the State regulatory authority or nonregulated electric utility, to be cost-effective if—

(1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique.

(d) Master metering

Separate metering shall be determined appropriate for any new building for purposes of section 2623(b)(1) of this title if—

(1) there is more than one unit in such building,

(2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and

(3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

(e) Automatic adjustment clauses

(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if—

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to such utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economies in those operations and purchases which affect the rates to which such clause applies.

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other items).

(3) As used in this subsection and section 2623(b) of this title, the term ''automatic adjustment clause'' means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate.

(f) Information to consumers

(1) For purposes of the standard for information to consumers established by section 2623(b)(3) of this title, each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric utility) applicable to such consumer. Such statement shall be transmitted to each such consumer—

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 2623(b)(3) of this title is adopted with respect to such electric utility, whichever last occurs, and

(B) not later than thirty days (sixty days in the case of an electric utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer (or proposal of such a change in the case of a nonregulated utility).

(2) For purposes of the standard for information to consumers established by section 2623(b)(3) of this title, each electric utility shall transmit to each of its electric consumers not less frequently than once each year—

(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) an identification of any classes whose rates are not summarized.

Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulated electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 2623(b)(3) of this title, each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric en-

ergy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility).

(g) Procedures for termination of electric service

The procedures for termination of service referred to in section 2623(b)(4) of this title are procedures prescribed by the State regulatory authority (with respect to electric utilities for which it has ratemaking authority) or by the nonregulated electric utility which provide that—

(1) no electric service to an electric consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility, and such consumer establishes that—

(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

(h) Advertising

(1) For purposes of this section and section 2623(b)(5) of this title—

(A) The term ''advertising'' means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility's electric consumers.

(B) The term ''political advertising'' means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.

(C) The term ''promotional advertising'' means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use such utility's service.

(2) For purposes of this subsection and section 2623(b)(5) of this title, the terms ''political advertising'' and ''promotional advertising'' do not include—

(A) advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,

(B) advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act [42 U.S.C. 8211 et seq.],

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility,

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notifications of hearings thereon.

(Pub. L. 95–617, title I, § 115, Nov. 9, 1978, 92 Stat. 3125.)

REFERENCES IN TEXT

The National Energy Conservation Policy Act, referred to in subsec. (h)(2)(B), is Pub. L. 95–619, Nov. 9, 1978, 92 Stat. 3206, as amended. Part 1 of title II of the National Energy Conservation Policy Act was classified generally to part A (§ 8211 et seq.) of subchapter II of chapter 91 of Title 42, The Public Health and Welfare, and was omitted from the Code pursuant to section 8229 of Title 42 which terminated authority under that part June 30, 1989. For complete classification of this Act to the Code, see Short Title note set out under section 8201 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2621, 2623 of this title.

§ 2626. Reports respecting standards

(a) State authorities and nonregulated utilities

Not later than one year after November 9, 1978, and annually thereafter for ten years, each State regulatory authority (with respect to each State regulated electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall report to the Secretary, in such manner as the Secretary shall prescribe, respecting its consideration of the standards established by sections 2621(d) and 2623(b) of this title. Such report shall include a summary of the determinations made and actions taken with respect to each such standard on a utility-by-utility basis.

(b) Secretary

Not later than eighteen months after November 9, 1978, and annually thereafter for ten years, the Secretary shall submit a report to the President and the Congress containing—

(1) a summary of the reports submitted under subsection (a) of this section,

(2) his analysis of such reports, and

(3) his actions under this chapter, and his recommendations for such further Federal actions, including any legislation, regarding retail electric utility rates (and other practices) as may be necessary to carry out the purposes of this chapter.

(Pub. L. 95–617, title I, § 116, Nov. 9, 1978, 92 Stat. 3128.)

§ 2627. Relationship to State law

(a) Revenue and rate of return

Nothing in this chapter shall authorize or require the recovery by an electric utility of revenues, or of a rate of return, in excess of, or less than, the amount of revenues or the rate of return determined to be lawful under any other provision of law.

(b) State authority

Nothing in this chapter prohibits any State regulatory authority or nonregulated electric utility from adopting, pursuant to State law, any standard or rule affecting electric utilities which is different from any standard established by this subchapter.

(c) Federal agencies

With respect to any electric utility which is a Federal agency, and with respect to the Tennessee Valley Authority when it is treated as a State regulatory authority as provided in section 2602(17) of this title, any reference in section 2621 or 2623 of this title to State law shall be treated as a reference to Federal law.

(Pub. L. 95–617, title I, § 117, Nov. 9, 1978, 92 Stat. 3128.)

SUBCHAPTER III—INTERVENTION AND JUDICIAL REVIEW

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 2613 of this title.

§ 2631. Intervention in proceedings

(a) Authority to intervene and participate

In order to initiate and participate in the consideration of one or more of the standards established by subchapter II of this chapter or other concepts which contribute to the achievement of the purposes of this chapter, the Secretary, any affected electric utility, or any electric consumer of an affected electric utility may intervene and participate as a matter of right in any ratemaking proceeding or other appropriate regulatory proceeding relating to rates or rate design which is conducted by a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by a nonregulated electric utility.

(b) Access to information

Any intervenor or participant in a proceeding described in subsection (a) of this section shall have access to information available to other parties to the proceeding if such information is relevant to the issues to which his intervention or participation in such proceeding relates. Such information may be obtained through reasonable rules relating to discovery of information prescribed by the State regulatory authority (in the case of proceedings concerning electric utilities for which it has ratemaking authority) or by the nonregulated electric utility (in the case of a proceeding conducted by a nonregulated electric utility).

(c) Effective date; procedures

Any intervention or participation under this section, in any proceeding commenced before November 9, 1978, but not completed before such date, shall be permitted under this section only to the extent such intervention or participation is timely under otherwise applicable law.

(Pub. L. 95–617, title I, § 121, Nov. 9, 1978, 92 Stat. 3128.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of title I to the Code, see Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2621, 2622, 2633, 2634 of this title.

§ 2632. Consumer representation

(a) Compensation for costs of participation or intervention

(1) If no alternative means for assuring representation of electric consumers is adopted in accordance with subsection (b) of this section and if an electric consumer of an electric utility substantially contributed to the approval, in whole or in part, of a position advocated by such consumer in a proceeding concerning such utility, and relating to any standard set forth in subchapter II of this chapter, such utility shall be liable to compensate such consumer (pursuant to paragraph (2)) for reasonable attorneys' fees, expert witness fees, and other reasonable costs incurred in preparation and advocacy of such position in such proceeding (including fees and costs of obtaining judicial review of any determination made in such proceeding with respect to such position).

(2) A consumer entitled to fees and costs under paragraph (1) may collect such fees and costs from an electric utility by bringing a civil action in any State court of competent jurisdiction, unless the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility) or nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has adopted a reasonable procedure pursuant to which such authority or nonregulated electric utility—

(A) determines the amount of such fees and costs, and

(B) includes an award of such fees and costs in its order in the proceeding.

(3) The procedure adopted by such State regulatory authority or nonregulated utility under paragraph (2) may include a preliminary proceeding to require that—

(A) as a condition of receiving compensation under such procedure such consumer demonstrate that, but for the ability to receive such award, participation or intervention in such proceeding may be a significant financial hardship for such consumer, and

(B) persons with the same or similar interests have a common legal representative in the proceeding as a condition to receiving compensation.

(b) Alternative means

Compensation shall not be required under subsection (a) of this section if the State, the State regulatory authority (in the case of a proceeding concerning a State regulated electric utility), or the nonregulated electric utility (in the case of a proceeding concerning such nonregulated electric utility) has provided an alternative means for providing adequate compensation to persons—

(1) who have, or represent, an interest—

(A) which would not otherwise be adequately represented in the proceeding, and

(B) representation of which is necessary for a fair determination in the proceeding, and

(2) who are, or represent an interest which is, unable to effectively participate or intervene in the proceeding because such persons cannot afford to pay reasonable attorneys' fees, expert witness fees, and other reasonable costs of preparing for, and participating or intervening in, such proceeding (including fees and costs of obtaining judicial review of such proceeding).

(c) Transcripts

The State regulatory authority or nonregulated electric utility, as the case may be, shall make transcripts of the proceeding available, at cost of reproduction, to parties or intervenors in any ratemaking proceeding, or other regulatory proceeding relating to rates or rate design, before a State regulatory authority or nonregulated electric utility.

(d) Federal agencies

Any claim under this section against any Federal agency shall be subject to the availability of appropriated funds.

(e) Rights under other authority

Nothing in this section affects or restricts any rights of any participant or intervenor in any proceeding under any other applicable law or rule of law.

(Pub. L. 95–617, title I, § 122, Nov. 9, 1978, 92 Stat. 3129.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2621 of this title.

§ 2633. Judicial review and enforcement

(a) Limitation of Federal jurisdiction

Notwithstanding any other provision of law, no court of the United States shall have jurisdiction over any action arising under any provision of subchapter I or II of this chapter or of this subchapter except for—

(1) an action over which a court of the United States has jurisdiction under subsection (b) or (c)(2) of this section; and

(2) review of any action in the Supreme Court of the United States in accordance with sections 1257 and 1258 of title 28.

(b) Enforcement of intervention right

(1) The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene and participate under section 2631(a) of this title, and such court shall have jurisdiction to grant appropriate relief.

(2) If any electric utility or electric consumer having a right to intervene under section 2631(a) of this title is denied such right by any State court, such electric utility or electric consumer may bring an action in the appropriate United States district court to require the State regulatory authority or nonregulated electric utility to permit such intervention and participation, and such court shall have jurisdiction to grant appropriate relief.

(3) Nothing in this subsection prohibits any person bringing any action under this subsection in a court of the United States from seeking review and enforcement at any time in any State court of any rights he may have with respect to any motion to intervene or participate in any proceeding.

(c) Review and enforcement

(1) Any person (including the Secretary) may obtain review of any determination made under subchapter I or II of this chapter or under this subchapter with respect to any electric utility (other than a utility which is a Federal agency) in the appropriate State court if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if State law otherwise permits such review. Any person (including the Secretary) may bring an action to enforce the requirements of this chapter in the appropriate State court, except that no such action may be brought in a State court with respect to a utility which is a Federal agency. Such review or action in a State court shall be pursuant to any applicable State procedures.

(2) Any person (including the Secretary) may obtain review in the appropriate court of the United States of any determination made under subchapter I or II of this chapter or this subchapter by a Federal agency if such person (or the Secretary) intervened or otherwise participated in the original proceeding or if otherwise applicable law permits such review. Such court shall have jurisdiction to grant appropriate relief. Any person (including the Secretary) may bring an action to enforce the requirements of subchapter I or II of this chapter or this subchapter with respect to any Federal agency in the appropriate court of the United States and such court shall have jurisdiction to grant appropriate relief.

(3) In addition to his authority to obtain review under paragraph (1) or (2), the Secretary may also participate as an amicus curiae in any review by any court of an action arising under the provisions of subchapter I or II of this chapter or this subchapter.

(d) Other authority of Secretary

Nothing in this section prohibits the Secretary from—

(1) intervening and participating in any proceeding, or

(2) intervening and participating in any review by any court of any action

under section 6804 of title 42.

(Pub. L. 95–617, title I, § 123, Nov. 9, 1978, 92 Stat. 3130.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 824a–3, 2621, 2623 of this title.

§ 2634. Prior and pending proceedings

For purposes of subchapters I and II of this chapter, and this subchapter, proceedings commenced by State regulatory authorities (with respect to electric utilities for which it has ratemaking authority) and nonregulated electric utilities before November 9, 1978, and actions taken before such date in such proceedings shall be treated as complying with the requirements of subchapters I and II of this chapter, and this

subchapter if such proceedings and actions substantially conform to such requirements. For purposes of subchapters I and II of this chapter, and this subchapter, any such proceeding or action commenced before November 9, 1978, but not completed before such date, shall comply with the requirements of subchapters I and II of this chapter, and this subchapter, to the maximum extent practicable, with respect to so much of such proceeding or action as takes place after such date, except as otherwise provided in section 2631(c) of this title.

(Pub. L. 95–617, title I, § 124, Nov. 9, 1978, 92 Stat. 3131.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2621, 2622, 2624 of this title.

SUBCHAPTER IV—ADMINISTRATIVE PROVISIONS

§ 2641. Voluntary guidelines

The Secretary may prescribe voluntary guidelines respecting the standards established by sections 2621(d) and 2623(b) of this title. Such guidelines may not expand the scope or legal effect of such standards or establish additional standards respecting electric utility rates.

(Pub. L. 95–617, title I, § 131, Nov. 9, 1978, 92 Stat. 3131.)

§ 2642. Responsibilities of Secretary

(a) Authority

The Secretary may periodically notify the State regulatory authorities, and electric utilities identified pursuant to section 2612(c) of this title, of—

(1) load management techniques and the results of studies and experiments concerning load management techniques;

(2) developments and innovations in electric utility ratemaking throughout the United States, including the results of studies and experiments in rate structure and rate reform;

(3) methods for determining cost of service; and

(4) any other data or information which the Secretary determines would assist such authorities and utilities in carrying out the provisions of this chapter.

(b) Technical assistance

The Secretary may provide such technical assistance as he determines appropriate to assist the State regulatory authorities in carrying out their responsibilities under subchapter II of this chapter and as is requested by any State regulatory authority relating to the standards established by subchapter II of this chapter.

(c) Appropriations

There are authorized to be appropriated to carry out the purposes of subsection (b) of this section not to exceed $1,000,000 for each of the fiscal years 1979 and 1980.

(Pub. L. 95–617, title I, § 132, Nov. 9, 1978, 92 Stat. 3131.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(4), was in the original ''this title'', meaning title I (§ 101 et seq.) of Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3120, which enacted this chapter and amended sections 6801 to 6808 of Title 42, The Public Health and Welfare. For complete classification of title I to the Code, see Tables.

§ 2643. Gathering information on costs of service

(a) Information required to be gathered

Each electric utility shall periodically gather information under such rules (promulgated by the Commission) as the Commission determines necessary to allow determination of the costs associated with providing electric service. For purposes of this section, and for purposes of any consideration and determination respecting the standard established by section 2621(d)(2) of this title, such costs shall be separated, to the maximum extent practicable, into the following components: customer cost component, demand cost component, and energy cost component. Rules under this subsection shall include requirements for the gathering of the following information with respect to each electric utility—

(1) the costs of serving each electric consumer class, including costs of serving different consumption patterns within such class, based on voltage level, time of use, and other appropriate factors;

(2) daily kilowatt demand load curves for all electric consumer classes combined representative of daily and seasonal differences in demand, and daily kilowatt demand load curves for each electric consumer class for which there is a separate rate, representative of daily and seasonal differences in demand;

(3) annual capital, operating, and maintenance costs—

(A) for transmission and distribution services, and

(B) for each type of generating unit; and

(4) costs of purchased power, including representative daily and seasonal differences in the amount of such costs.

Such rules shall provide that information required to be gathered under this section shall be presented in such categories and such detail as may be necessary to carry out the purposes of this section.

(b) Commission rules

The Commission shall, within 180 days after November 9, 1978, by rule, prescribe the methods, procedure, and format to be used by electric utilities in gathering the information described in this section. Such rules may provide for the exemption by the Commission of an electric utility or class of electric utilities from gathering all or part of such information, in cases where such utility or utilities show and the Commission finds, after public notice and opportunity for the presentation of written data, views, and arguments, that gathering such information is not likely to carry out the purposes of this section. The Commission shall periodically review such findings and may revise such rules.

(c) Filing and publication

Not later than two years after November 9, 1978, and periodically, but not less frequently than every two years thereafter, each electric utility shall file with—

(1) the Commission, and

(2) any State regulatory authority which has ratemaking authority for such utility,

the information gathered pursuant to this section and make such information available to the public in such form and manner as the Commission shall prescribe. In addition, at the time of application for, or proposal of, any rate increase, each electric utility shall make such information available to the public in such form and manner as the Commission shall prescribe. The two-year period after November 9, 1978, specified in this subsection may be extended by the Commission for a reasonable additional period in the case of any electric utility for good cause shown.

(d) Enforcement

For purposes of enforcement, any violation of a requirement of this section shall be treated as a violation of a provision of the Energy Supply and Environmental Coordination Act of 1974 [15 U.S.C. 791 et seq.] enforceable under section 12 of such Act [15 U.S.C. 797] (notwithstanding any expiration date in such Act) except that in applying the provisions of such section 12 any reference to the Federal Energy Administrator shall be treated as a reference to the Commission.

(Pub. L. 95–617, title I, § 133, Nov. 9, 1978, 92 Stat. 3132.)

REFERENCES IN TEXT

The Energy Supply and Environmental Coordination Act of 1974, referred to in subsec. (d), is Pub. L. 93–319, June 22, 1974, 88 Stat. 246, as amended, which is classified principally to chapter 16C (§ 791 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 791 of Title 15 and Tables.

§ 2644. Relationship to other authority

Nothing in this chapter shall be construed to limit or affect any authority of the Secretary or the Commission under any other provision of law.

(Pub. L. 95–617, title I, § 134, Nov. 9, 1978, 92 Stat. 3133.)

§ 2645. Utility regulatory institute

(a) Matching grants

The Secretary may make grants under this section to an institute established by the National Association of Regulatory Utility Commissioners to enable such institute to—

(1) conduct research on electric and gas utility regulatory policy issues,

(2) develop data processing and retrieval methods for electric and gas utility ratemaking, and

(3) perform other functions directly related to assisting State regulatory authorities in carrying out their functions under State law and this Act.

(b) Federal share

Grants under this section shall not be used to provide more than the following percentages of the cost to the institute of carrying out the activities specified in subsection (a) of this section:

(1) 80 percent for the fiscal year 1979; and

(2) 60 percent for the fiscal year 1980.

The remaining amounts expended by the institute may not be provided from Federal sources.

(c) Restrictions

Grants under this section may not be made subject to terms and conditions other than those the Secretary deems necessary for purposes of administering this section and for purposes of assuring that—

(1) all information gathered by the institute is available to the Secretary, the Commission, and the public, and

(2) no portion of any such grant is used to support or oppose any legislative proposal except by means of testimony by representatives of the institute provided by invitation to a committee of Congress or of a State legislature.

(d) Authorization of appropriations

There is authorized to be appropriated not more than $2,000,000 for each of the fiscal years 1979 and 1980 for purposes of making grants under this section. No amounts may be appropriated for any fiscal year after the fiscal year 1980 to carry out the purposes of this section without a specific authorization of Congress.

(Pub. L. 95–617, title VI, § 603, Nov. 9, 1978, 92 Stat. 3165.)

REFERENCES IN TEXT

This Act, referred to in subsec. (a)(3), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of this title and Tables.

CODIFICATION

This section was not enacted as part of title I of Pub. L. 95–617 which comprises this chapter.

CHAPTER 47—SMALL HYDROELECTRIC POWER PROJECTS

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§ 2701. Establishment of program

The Secretary shall establish a program in accordance with this chapter to encourage munici-