

nessee 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.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (b), 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 subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

SUBCHAPTER III—INTERVENTION AND JUDICIAL REVIEW

§ 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 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 subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

§ 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, 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'