

intervening or participating or proposing to intervene or participate in proceedings before the Commission.

(2) The Commission may, under rules promulgated by it, provide compensation for reasonable attorney's fees, expert witness fees, and other costs of intervening or participating in any proceeding before the Commission to any person whose intervention or participation substantially contributed to the approval, in whole or in part, of a position advocated by such person. Such compensation may be paid only if the Commission has determined that—

(A) the proceeding is significant, and

(B) such person's intervention or participation in such proceeding without receipt of compensation constitutes a significant financial hardship to him.

(3) Nothing in this subsection affects or restricts any rights of any intervenor or participant under any other applicable law or rule of law.

(4) There are authorized to be appropriated to the Secretary of Energy to be used by the Office for purposes of compensation of persons under the provisions of this subsection not to exceed \$500,000 for the fiscal year 1978, not to exceed \$2,000,000 for the fiscal year 1979, not to exceed \$2,200,000 for the fiscal year 1980, and not to exceed \$2,400,000 for the fiscal year 1981.

(June 10, 1920, ch. 285, pt. III, §319, as added Pub. L. 95-617, title II, §212, Nov. 9, 1978, 92 Stat. 3148.)

#### REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, §101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

#### § 825r. Separability

If any provision of this chapter, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of the chapter, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(June 10, 1920, ch. 285, pt. III, §320, formerly §319, as added Aug. 26, 1935, ch. 687, title II, §213, 49 Stat. 863, and renumbered §320, Pub. L. 95-617, title II, §212, Nov. 9, 1978, 92 Stat. 3148.)

#### § 825s. Sale of electric power from reservoir projects; rate schedules; preference in sale; construction of transmission lines; disposition of moneys

Electric power and energy generated at reservoir projects under the control of the Department of the Army and in the opinion of the Secretary of the Army not required in the operation of such projects shall be delivered to the Secretary of Energy who shall transmit and dispose of such power and energy in such manner as to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles, the rate

schedules to become effective upon confirmation and approval by the Secretary of Energy. Rate schedules shall be drawn having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric energy, including the amortization of the capital investment allocated to power over a reasonable period of years. Preference in the sale of such power and energy shall be given to public bodies and cooperatives. The Secretary of Energy is authorized, from funds to be appropriated by the Congress, to construct or acquire, by purchase or other agreement, only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at said projects available in wholesale quantities for sale on fair and reasonable terms and conditions to facilities owned by the Federal Government, public bodies, cooperatives, and privately owned companies. All moneys received from such sales shall be deposited in the Treasury of the United States as miscellaneous receipts.

(Dec. 22, 1944, ch. 665, §5, 58 Stat. 890; July 26, 1947, ch. 343, title II, §205(a), 61 Stat. 501; Pub. L. 95-91, title III, §§301(b), 302(a)(1), Aug. 4, 1977, 91 Stat. 578.)

#### CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

#### CHANGE OF NAME

Department of War designated Department of the Army and title of Secretary of War changed to Secretary of the Army by section 205(a) of act July 26, 1947, ch. 343, title II, 61 Stat. 501. Section 205(a) of act July 26, 1947, was repealed by section 53 of act Aug. 10, 1956, ch. 1041, 70A Stat. 641. Section 1 of act Aug. 10, 1956, enacted "Title 10, Armed Forces" which in sections 3010 to 3013 continued military Department of the Army under administrative supervision of Secretary of the Army.

#### TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted in text for "Secretary of the Interior" in two places and for "Federal Power Commission" pursuant to Pub. L. 95-91, §§301(b), 302(a)(1), which are classified to sections 7151(b) and 7152(a)(1) of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior under this section transferred to Secretary of Energy by section 7152(a)(1) of Title 42.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Executive and administrative functions of Federal Power Commission, with certain reservations, transferred to Chairman of such Commission, with authority vested in him to authorize their performance by any officer, employee, or administrative unit under his jurisdiction, by Reorg. Plan No. 9 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out as a note under section 792 of this title.

#### SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act [43 U.S.C. 1301 et seq.], see section 1303 of Title 43, Public Lands.

**§ 825s-1. Southwestern area sale and transmission of electric power; disposition of receipts; creation of continuing fund; use of fund**

All receipts from the transmission and sale of electric power and energy under the provisions of section 825s of this title, generated or purchased in the southwestern power area, shall be covered into the Treasury of the United States as miscellaneous receipts, except that the Treasury shall set up and maintain from such receipts a continuing fund of \$300,000, including the sum of \$100,000 in the continuing fund established under the Administrator of the Southwestern Power Administration in the First Supplemental National Defense Appropriation Act, 1944 (57 Stat. 621), which shall be transferred to the fund established; and said fund of \$300,000 shall be placed to the credit of the Secretary and shall be subject to check by him to defray emergency expenses necessary to insure continuity of electric service and continuous operation of the facilities, and to cover all costs in connection with the purchase of electric power and energy and rentals for the use of facilities for the transmission and distribution of electric power and energy to public bodies, cooperatives, and privately owned companies: *Provided*, That expenditures from this fund to cover such costs in connection with the purchase of electric power and energy and rentals for the use of facilities are to be made only in such amounts as may be approved annually in appropriation Acts.

(Oct. 12, 1949, ch. 680, title I, §101, 63 Stat. 767; Aug. 31, 1951, ch. 375, title I, §101, 65 Stat. 249.)

REFERENCES IN TEXT

The First Supplemental National Defense Appropriation Act, 1944, referred to in text, was act Dec. 23, 1943, ch. 380, title I, §101, 57 Stat. 621, which was not classified to the Code.

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

Section as originally enacted contained a provision relating to maximum expenditures for the fiscal year 1952.

AMENDMENTS

1951—Act Aug. 31, 1951, inserted proviso.

**USE OF FUND TO PAY FOR PURCHASE POWER AND WHEELING EXPENSES TO MEET CONTRACTUAL OBLIGATIONS DURING PERIODS OF BELOW-AVERAGE HYDRO-POWER GENERATION**

Pub. L. 101-101, title III, Sept. 29, 1989, 103 Stat. 660, provided: "That the continuing fund established by the Act of October 12, 1949, c. 680, title I, section 101, as amended [16 U.S.C. 825s-1], shall also be available on an ongoing basis for paying for purchase power and wheeling expenses when the Administrator determines that such expenditures are necessary to meet contractual obligations for the sale and delivery of power during periods of below-average hydropower generation. Payments from the continuing fund shall be limited to the amount required to replace the generation deficiency, and only for the project where the deficiency occurred. Replenishment of the fund shall occur within twelve months of the month in which the funds were first expended."

**§ 825s-2. Southeastern area sale and transmission of electric power; disposition of receipts; creation of continuing funds; use of fund**

All receipts from the transmission and sale of electric power and energy under the provisions of section 825s of this title, generated or purchased in the southeastern power area, shall be covered into the Treasury of the United States as miscellaneous receipts, except that the Treasury shall set up and maintain from such receipts a continuing fund of \$50,000, and said fund shall be placed to the credit of the Secretary, and shall be subject to check by him to defray emergency expenses necessary to insure continuity of electric service and continuous operation of Government facilities in said area.

(Aug. 31, 1951, ch. 375, title I, §101, 65 Stat. 249.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

**§ 825s-3. Southwestern area sale at uniform systemwide rates of electric power over transmission lines constructed with appropriated funds or used under contractual arrangements**

Power and energy marketed by the Southwestern Power Administration pursuant to section 825s of this title, shall be sold at uniform systemwide rates, without discrimination between customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities constructed with appropriated funds, and customers to whom the Southwestern Power Administration delivers such power and energy by means of transmission lines or facilities, the use of which is acquired by lease, wheeling, or other contractual arrangements.

(Pub. L. 95-456, §1, Oct. 13, 1978, 92 Stat. 1230.)

CODIFICATION

Section was not enacted as part of the Federal Power Act which generally comprises this chapter.

EFFECTIVE DATE

Pub. L. 95-456, §2, Oct. 13, 1978, 92 Stat. 1230, provided that: "This Act [enacting this section] shall not become effective until Contract No. 14-02-00001-1002, effective August 1, 1962, between the United States of America and Associated Electric Cooperative, Inc., Springfield, Missouri, has been amended in a manner mutually agreeable to the parties thereto."

**§ 825s-4. Southwestern Power Administration; deposit and availability of advance payments**

Notwithstanding section 3302 of title 31, beginning in fiscal year 2005 and thereafter, such funds as are received by the Southwestern Power Administration from any State, municipality, corporation, association, firm, district, or individual as advance payment for work that is associated with Southwestern's transmission facilities, consistent with that authorized in section 825s of this title, shall be credited to this account and be available until expended.

(Pub. L. 108-447, div. C, title III, Dec. 8, 2004, 118 Stat. 2956.)