

and planning processes of the natural gas utility.

(6) Rate design modifications to promote energy efficiency investments

(A) In general

The rates allowed to be charged by a natural gas utility shall align utility incentives with the deployment of cost-effective energy efficiency.

(B) Policy options

In complying with subparagraph (A), each State regulatory authority and each non-regulated utility shall consider—

- (i) separating fixed-cost revenue recovery from the volume of transportation or sales service provided to the customer;
- (ii) providing to utilities incentives for the successful management of energy efficiency programs, such as allowing utilities to retain a portion of the cost-reducing benefits accruing from the programs;
- (iii) promoting the impact on adoption of energy efficiency as 1 of the goals of retail rate design, recognizing that energy efficiency must be balanced with other objectives; and
- (iv) adopting rate designs that encourage energy efficiency for each customer class.

For purposes of applying the provisions of this chapter³ to this paragraph, any reference in this chapter³ to November 9, 1978, shall be treated as a reference to December 19, 2007.

(c) Procedural requirements

Each State regulatory authority (with respect to each gas utility for which it has ratemaking authority) and each nonregulated gas utility, within the 2-year period specified in subsection (a), shall adopt, pursuant to subsection (a), each of the standards established by subsection (b), or, with respect to any such standard which is not adopted, such authority or nonregulated gas 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.

(d) Small business impacts

If a State regulatory authority implements a standard established by subsection (b)(3) or (4), such authority shall—

- (1) 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
- (2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.

(Pub. L. 95-617, title III, §303, Nov. 9, 1978, 92 Stat. 3150; Pub. L. 102-486, title I, §115(b)-(d), Oct. 24, 1992, 106 Stat. 2803, 2804; Pub. L. 110-140, title V, §532(b), (c), Dec. 19, 2007, 121 Stat. 1666, 1667.)

³ See Codification note below.

REFERENCES IN TEXT

The Energy Policy Act of 1992, referred to in subsec. (b)(4), is Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2776. For complete classification of this Act to the Code, see Short Title note set out under section 13201 of Title 42, The Public Health and Welfare and Tables.

CODIFICATION

This chapter, referred to in subsec. (b)(6), was in the original “this subtitle”, which was translated as meaning title III of Pub. L. 95-617 to reflect the probable intent of Congress.

AMENDMENTS

2007—Subsec. (a)(2). Pub. L. 110-140, §532(c), which directed substitution of “(4), (5), and (6)” for “and (4)” in subsec. (a), was executed by making the substitution in subsec. (a)(2) to reflect the probable intent of Congress.

Subsec. (b)(5), (6). Pub. L. 110-140, §532(b), added pars. (5) and (6).

1992—Subsec. (a). Pub. L. 102-486, §115(d), in introductory provisions inserted “(or after October 24, 1992, in the case of standards under paragraphs (3), and (4) of subsection (b))” and in par. (2) substituted “standards established by paragraphs (2), (3) and (4) of subsection (b)” for “standard established by subsection (b)(2)”.

Subsec. (b)(3), (4). Pub. L. 102-486, §115(b), added pars. (3) and (4).

Subsec. (d). Pub. L. 102-486, §115(c), added subsec. (d).

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

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

Pub. L. 102-486, title I, §115(e), Oct. 24, 1992, 106 Stat. 2804, provided that: “The report under section 111(e) of this Act [16 U.S.C. 2621 note] transmitted by the Secretary of Energy to the President and to the Congress shall contain a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978 [15 U.S.C. 3203(b)(3) and (4)]. 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 gas 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 or practices exist, or are likely to exist, from implementation of such programs.”

DEFINITIONS

The definitions of State and system cost in section 2602 of Title 16, Conservation, apply to this section.

§ 3204. Special rules for standards

(a) Procedures for termination of gas service

The procedures for termination of service referred to in section 3203(b)(1) of this title are procedures prescribed by the State regulatory authority (with respect to gas utilities for which it has ratemaking authority) or the nonregulated gas utility which provide that—

- (1) no gas service to a gas 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 a gas consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to each gas utility for which it has ratemaking authority) or nonregulated gas 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.

(b) Advertising

(1) For purposes of this section and section 3203 of this title—

(A) The term “advertising” means the commercial use, by a gas 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 gas 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 a gas utility or the selection or installation of any appliance or equipment designed to use such utility's service.

(2) For purposes of this section and section 3203 of this title, the terms “political advertising” and “promotional advertising” do not include—

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

(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 notification of hearings thereon.

(Pub. L. 95-617, title III, §304, Nov. 9, 1978, 92 Stat. 3151.)

REFERENCES IN TEXT

The National Energy Conservation Policy Act, referred to in subsec. (b)(2)(B), is Pub. L. 95-619, Nov. 9,

1978, 92 Stat. 3208. 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.

§ 3205. Federal participation

(a) Intervention

In addition to the authorities vested in the Secretary pursuant to any other provision of law, the Secretary, on his own motion, may intervene as a matter of right in any proceeding before a State regulatory authority which relates to gas utility rates or rate design. Such intervention shall be solely for the purpose of advocating policies or methods which carry out the purposes set forth in section 3201 of this title.

(b) Rights

The Secretary shall have the same rights as any other party to a proceeding before a State regulatory authority which relates to gas utility rates or rate design.

(c) Nonregulated gas utilities

The Secretary, on his own motion, may, to the same extent as provided in subsections (a) through (b), intervene as a matter of right in any proceeding which relates to rates or rate design of nonregulated gas utilities.

(Pub. L. 95-617, title III, §305, Nov. 9, 1978, 92 Stat. 3152.)

DEFINITIONS

The definition of Secretary in section 2602 of Title 16, Conservation, applies to this section.

§ 3206. Gas utility rate design proposals

(a) Study

(1) The Secretary, in consultation with the Commission and, after affording an opportunity for consultation and comment by representatives of the State regulatory commissions, gas utilities, and gas consumers, shall study and report to Congress on gas utility rate design within 18 months after November 9, 1978. Such study shall address the effect (both separately and in combination) of the following factors upon the items listed in paragraph (2): incremental pricing; marginal cost pricing; end user gas consumption taxes; wellhead natural gas pricing policies; demand-commodity rate design; declining block rates; interruptible service; seasonal rate differentials; and end user rate schedules.

(2) The items referred to in paragraph (1) are as follows:

(A) natural gas pipeline and local distribution company load factors;

(B) rates to each class of user, including residential, commercial, and industrial users;

(C) the change in total costs resulting from gas utility designs (including capital and operating costs) to gas consumers or classes thereof;

(D) demand for, and consumption of, natural gas;