

cuit pursuant to the provisions of chapter 7 of title 5, except that the second sentence of section 705 thereof shall not apply.

(c) Judicial review of emergency orders

Except with respect to enforcement of orders or subpoenas under section 3364(a) of this title, the United States Court of Appeals for the Federal Circuit shall have exclusive original jurisdiction to review all civil cases and controversies under section 3361, 3362 or 3363 of this title, including any order issued, or other action taken, under such section. The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of all appeals from the district courts of the United States in cases and controversies arising under section 3364(a)(2) of this title; such appeals shall be taken by the filing of a notice of appeal with the United States Court of Appeals for the Federal Circuit within thirty days after the entry of judgment by the district court. Prior to a final judgment, no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued, or action taken, under section 3361, 3362, or 3363 of this title.

(Pub. L. 95-621, title V, §506, Nov. 9, 1978, 92 Stat. 3404; Pub. L. 101-60, §3(a)(5), July 26, 1989, 103 Stat. 158; Pub. L. 102-572, title I, §102(b), Oct. 29, 1992, 106 Stat. 4506.)

AMENDMENTS

1992—Subsec. (c). Pub. L. 102-572 substituted “the United States Court of Appeals for the Federal Circuit” for “the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended,” before “shall have exclusive original jurisdiction” and substituted “United States Court of Appeals for the Federal Circuit” for “Temporary Emergency Court of Appeals” in two places.

1989—Subsec. (d). Pub. L. 101-60 struck out subsec. (d) which related to judicial review of certain incremental pricing determinations.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Jan. 1, 1993, see section 1101 of Pub. L. 102-572, set out as a note under section 905 of Title 2, The Congress.

§ 3417. Repealed. Pub. L. 101-60, § 3(a)(6), July 26, 1989, 103 Stat. 158

Section, Pub. L. 95-621, title V, §507, Nov. 9, 1978, 92 Stat. 3406, related to congressional review of Presidential reimposition of maximum lawful prices under section 3332 of this title, congressional reimposition of maximum lawful prices under section 3332 of this title, and congressional disapproval of incremental pricing under section 3342(c) or 3346(d)(2) of this title.

§ 3418. Applicability of other Federal statutory provisions relating to information-gathering

In order to obtain information for the purpose of carrying out its functions under this chapter, the Commission shall have the same authority as is vested in the Secretary under 7151(a) of title 42 with respect to the exercise of authority under section 796(b) of this title and section 772(b), (c), and (d) of this title.

(Pub. L. 95-621, title V, §508(b), Nov. 9, 1978, 92 Stat. 3408.)

SUBCHAPTER VI—COORDINATION WITH NATURAL GAS ACT; MISCELLANEOUS PROVISIONS

§ 3431. Coordination with the Natural Gas Act

(a) Jurisdiction of the Commission under the Natural Gas Act

(1) Sales

(A) Application to first sales

For purposes of section 1(b) of the Natural Gas Act [15 U.S.C. 717(b)], the provisions of the Natural Gas Act [15 U.S.C. 717 et seq.], and the jurisdiction of the Commission under such Act shall not apply to any natural gas solely by reason of any first sale of such natural gas.

(B) Authorized sales or assignments

For purposes of section 1(b) of the Natural Gas Act [15 U.S.C. 717(b)], the provisions of the Natural Gas Act [15 U.S.C. 717 et seq.] and the jurisdiction of the Commission under such Act shall not apply by reason of any sale of natural gas—

(i) authorized under section 3362(a) or 3371(b) of this title; or

(ii) pursuant to any assigned¹ authorized under section 3372(a) of this title.

(C) Natural-gas company

For purposes of the Natural Gas Act [15 U.S.C. 717 et seq.], the term “natural-gas company” (as defined in section 2(6) of such Act [15 U.S.C. 717a(6) et seq.]) shall not include any person by reason of, or with respect to, any sale of natural gas if the provisions of the Natural Gas Act and the jurisdiction of the Commission do not apply to such sale solely by reason of subparagraph (A) or (B) of this paragraph.

(2) Transportation

(A) Jurisdiction of the Commission

For purposes of section 1(b) of the Natural Gas Act [15 U.S.C. 717(b)] the provisions of such Act [15 U.S.C. 717 et seq.] and the jurisdiction of the Commission under such Act shall not apply to any transportation in interstate commerce of natural gas if such transportation is—

(i) pursuant to any order under section 3362(c) or section 3363(b), (c), (d), or (h) of this title; or

(ii) authorized by the Commission under section 3371(a) of this title.

(B) Natural-gas company

For purposes of the Natural Gas Act [15 U.S.C. 717 et seq.], the term “natural-gas company” (as defined in section 2(6) of such Act [15 U.S.C. 717a(6)]) shall not include any person by reason of, or with respect to, any transportation of natural gas if the provisions of the Natural Gas Act and the jurisdiction of the Commission under the Natural Gas Act do not apply to such transportation by reason of subparagraph (A) of this paragraph.

¹ So in original. Probably should be “assignment”.

(b) Charges deemed just and reasonable**(1) Sales****(A) First sales**

Except as otherwise provided in this subsection, for purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any first sale of natural gas shall be deemed to be just and reasonable.

(B) Emergency sales

For purposes of sections 4 and 5 of the Natural Gas Act [15 U.S.C. 717c, 717d], any amount paid in any sale authorized under section 3362(a) of this title shall be deemed to be just and reasonable if such amount does not exceed the fair and equitable price established under such section and applicable to such sale.

(C) Sales by intrastate pipelines

For purposes of sections 4 and 5 of the Natural Gas Act [15 U.S.C. 717c, 717d] any amount paid in any sale authorized by the Commission under section 3371(b) of this title shall be deemed to be just and reasonable if such amount does not exceed the fair and equitable price established by the Commission and applicable to such sale.

(D) Assignments

For purposes of sections 4 and 5 of the Natural Gas Act [15 U.S.C. 717c, 717d], any amount paid pursuant to the terms of any contract with respect to that portion of which the Commission has authorized an assignment authorized under section 3372(a) of this title shall be deemed to be just and reasonable.

(E) Affiliated entities limitation

For purposes of paragraph (1), in the case of any first sale between any interstate pipeline and any affiliate of such pipeline, any amount paid in any first sale shall be deemed to be just and reasonable if, in addition to satisfying the requirements of such paragraph, such amount does not exceed the amount paid in comparable first sales between persons not affiliated with such interstate pipeline.

(2) Other charges**(A) Allocation**

For purposes of sections 4 and 5 of the Natural Gas Act [15 U.S.C. 717c, 717d], any amount paid by any interstate pipeline for transportation, storage, delivery or other services provided pursuant to any order under section 3363(b), (c), or (d) of this title shall be deemed to be just and reasonable if such amount is prescribed by the President under section 3363(h)(1) of this title.

(B) Transportation

For purposes of sections 4 and 5 of the Natural Gas Act [15 U.S.C. 717c, 717d], any amount paid by any interstate pipeline for any transportation authorized by the Commission under section 3371(a) of this title shall be deemed to be just and reasonable if such amount does not exceed that approved by the Commission under such section.

(c) Guaranteed passthrough**(1) Certificate may not be denied based upon price**

The Commission may not deny, or condition the grant of, any certificate under section 7 of the Natural Gas Act [15 U.S.C. 717f] based upon the amount paid in any sale of natural gas, if such amount is deemed to be just and reasonable under subsection (b) of this section.

(2) Recovery of just and reasonable prices paid

For purposes of sections 4 and 5 of the Natural Gas Act [15 U.S.C. 717c, 717d], the Commission may not deny any interstate pipeline recovery of any amount paid with respect to any purchase of natural gas if, under subsection (b) of this section, such amount is deemed to be just and reasonable for purposes of sections 4 and 5 of such Act, except to the extent the Commission determines that the amount paid was excessive due to fraud, abuse, or similar grounds.

(Pub. L. 95-621, title VI, §601, Nov. 9, 1978, 92 Stat. 3409; Pub. L. 101-60, §3(a)(7), (b)(7), July 26, 1989, 103 Stat. 158, 159.)

REFERENCES IN TEXT

The Natural Gas Act, referred to in subsec. (a)(1), (2)(A), (B), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is classified generally to chapter 15B (§717 et seq.) of this title. For complete classification of this act to the Code, see section 717w of this title and Tables.

AMENDMENTS

1989—Subsec. (a)(1)(A). Pub. L. 101-60, §3(b)(7)(A), in heading substituted “Application to first sales” for “Natural gas not committed or dedicated” and amended text generally. Prior to amendment, text read as follows: “For purposes of section 1(b) of the Natural Gas Act, effective on the first day of the first month beginning after November 9, 1978, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply to natural gas which was not committed or dedicated to interstate commerce as of November 8, 1978, solely by reason of any first sale of such natural gas.”

Subsec. (a)(1)(B). Pub. L. 101-60, §3(b)(7)(B), (C), redesignated subpar. (C) as (B) and struck out former subpar. (B) which related to committed or dedicated natural gas which was high-cost natural gas, new natural gas, or natural gas produced from any new, onshore production well.

Subsec. (a)(1)(C). Pub. L. 101-60, §3(b)(7)(C), (D), redesignated subpar. (D) as (C) and substituted “subparagraph (A) or (B)” for “subparagraph (A), (B), or (C)”. Former subpar. (C) redesignated (B).

Subsec. (a)(1)(D). Pub. L. 101-60, §3(b)(7)(C), redesignated subpar. (D) as (C).

Subsec. (a)(1)(E). Pub. L. 101-60, §3(b)(7)(B), struck out subpar. (E), “Certain additional natural gas”, which read as follows: “For purposes of section 1(b) of the Natural Gas Act, the provisions of the Natural Gas Act and the jurisdiction of the Commission under such Act shall not apply solely by reason of any first sale of natural gas which is committed or dedicated to interstate commerce as of July 25, 1989, and which is not subject to a maximum lawful price under part A of subchapter I of this chapter by reason of section 3331(f) of this title, effective as of the date such gas ceases to be subject to such maximum lawful price.”

Pub. L. 101-60, §3(a)(7)(A), substituted “Certain additional natural gas” for “Alaskan natural gas” in heading and amended text generally. Prior to amendment, text read as follows: “Subparagraph (B)(ii) and (iii)

shall not apply with respect to natural gas produced from the Prudhoe Bay unit of Alaska and transported through the transportation system approved under the Alaska Natural Gas Transportation Act of 1976.”

Subsec. (b)(1)(A). Pub. L. 101-60, §3(b)(7)(E), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “Subject to paragraph (4), for purposes of sections 4 and 5 of the Natural Gas Act, any amount paid in any first sale of natural gas shall be deemed to be just and reasonable if—

“(i) such amount does not exceed the applicable maximum lawful price established under subchapter I of this chapter; or

“(ii) there is no applicable maximum lawful price solely by reason of the elimination of price controls pursuant to part B of subchapter I of this chapter.”

Subsec. (b)(1)(D). Pub. L. 101-60, §3(b)(7)(F), struck out before period at end “if such amount does not exceed the applicable maximum lawful price established under subchapter I of this chapter”.

Subsec. (c)(2). Pub. L. 101-60, §3(a)(7)(B), substituted “purchase of natural gas if, under subsection (b) of this section, such amount is deemed to be just and reasonable for purposes of sections 4 and 5 of such Act,” for “purchase of natural gas if—

“(A) under subsection (b) of this section, such amount is deemed to be just and reasonable for purposes of sections 4 and 5 of such Act, and

“(B) such recovery is not inconsistent with any requirement of any rule under section 3341 of this title (including any amendment under section 3342 of this title).”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 3(b)(7) of Pub. L. 101-60 effective Jan. 1, 1993, see section 3(b) of Pub. L. 101-60, set out as a note under section 3372 of this title.

§ 3432. Effect on State laws

(a) Authority to prescribe maximum lawful prices

Nothing in this chapter shall affect the authority of any State to establish or enforce any maximum lawful price for the first sale of natural gas produced in such State.

(b) Common carriers

No person shall be subject to regulation as a common carrier under any provision of Federal or State law by reason of any transportation—

(1) pursuant to any order under section 3362(c) or section 3363(b), (c), (d), or (i) of this title; or

(2) authorized by the Commission under section 3371(a) of this title.

(Pub. L. 95-621, title VI, §602, Nov. 9, 1978, 92 Stat. 3411; Pub. L. 101-60, §3(b)(8), July 26, 1989, 103 Stat. 159.)

AMENDMENTS

1989—Subsec. (a). Pub. L. 101-60 struck out “lower” after “prescribe” in heading and struck out before period at end “which does not exceed the applicable maximum lawful price, if any, under subchapter I of this chapter”.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-60 effective Jan. 1, 1993, see section 3(b) of Pub. L. 101-60, set out as a note under section 3372 of this title.

CHAPTER 61—SOFT DRINK INTERBRAND COMPETITION

Sec.

3501. Exclusive territorial licenses to manufacture, distribute, and sell trademarked soft drink products; ultimate resale to consumers; substantial and effective competition.

Sec.

3502. Price fixing agreements, horizontal restraints of trade, or group boycotts.

3503. “Antitrust law” defined.

§ 3501. Exclusive territorial licenses to manufacture, distribute, and sell trademarked soft drink products; ultimate resale to consumers; substantial and effective competition

Nothing contained in any antitrust law shall render unlawful the inclusion and enforcement in any trademark licensing contract or agreement, pursuant to which the licensee engages in the manufacture (including manufacture by a sublicensee, agent, or subcontractor), distribution, and sale of a trademarked soft drink product, of provisions granting the licensee the sole and exclusive right to manufacture, distribute, and sell such product in a defined geographic area or limiting the licensee, directly or indirectly, to the manufacture, distribution, and sale of such product only for ultimate resale to consumers within a defined geographic area: *Provided*, That such product is in substantial and effective competition with other products of the same general class in the relevant market or markets.

(Pub. L. 96-308, §2, July 9, 1980, 94 Stat. 939.)

SHORT TITLE

Pub. L. 96-308, §1, July 9, 1980, 94 Stat. 939, provided that: “This Act [enacting this chapter] may be cited as the ‘Soft Drink Interbrand Competition Act.’”

SUSPENSION OF STATUTE OF LIMITATIONS ON INSTITUTION OF ANTITRUST PROCEEDINGS BY UNITED STATES; ENFORCEMENT OF TRADEMARK LICENSING AGREEMENT PROVISIONS CONCERNING SOFT DRINK PRODUCTS

Pub. L. 96-308, §4, July 9, 1980, 94 Stat. 939, provided that: “In the case of any proceeding instituted by the United States described in subsection (i) of section 5 of the Clayton Act (relating to suspension of the statute of limitations on the institution of proceedings by the United States) (15 U.S.C. 16(i)) which is pending on the date of the enactment of this Act [July 9, 1980], that subsection shall not apply with respect to any right of action referred to in that subsection based in whole or in part on any matter complained of in that proceeding consisting of the existence or enforcement of any provision described in section 2 of this Act [this section] in any trademark licensing contract or agreement described in that section.”

§ 3502. Price fixing agreements, horizontal restraints of trade, or group boycotts

Nothing in this chapter shall be construed to legalize the enforcement of provisions described in section 3501 of this title in trademark licensing contracts or agreements described in that section by means of price fixing agreements, horizontal restraints of trade, or group boycotts, if such agreements, restraints, or boycotts would otherwise be unlawful.

(Pub. L. 96-308, §3, July 9, 1980, 94 Stat. 939.)

§ 3503. “Antitrust law” defined

As used in this chapter, the term “antitrust law” means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12 et seq.), and the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(Pub. L. 96-308, §5, July 9, 1980, 94 Stat. 939.)