

92 Stat. 3117, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

### § 16454. Exemption authority

#### (a) Rulemaking

Not later than 90 days after the effective date of this part, the Commission shall issue a final rule to exempt from the requirements of section 16452 of this title (relating to Federal access to books and records) any person that is a holding company, solely with respect to one or more—

- (1) qualifying facilities under the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.);
- (2) exempt wholesale generators; or
- (3) foreign utility companies.

#### (b) Other authority

The Commission shall exempt a person or transaction from the requirements of section 16452 of this title (relating to Federal access to books and records) if, upon application or upon the motion of the Commission—

- (1) the Commission finds that the books, accounts, memoranda, and other records of any person are not relevant to the jurisdictional rates of a public utility or natural gas company; or
- (2) the Commission finds that any class of transactions is not relevant to the jurisdictional rates of a public utility or natural gas company.

(Pub. L. 109–58, title XII, §1266, Aug. 8, 2005, 119 Stat. 975.)

#### REFERENCES IN TEXT

For the effective date of this part, referred to in subsec. (a), see Effective Date note set out under section 16451 of this title.

The Public Utility Regulatory Policies Act of 1978, referred to in subsec. (a)(1), is Pub. L. 95–617, Nov. 9, 1978, 92 Stat. 3117, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

### § 16455. Affiliate transactions

#### (a) Commission authority unaffected

Nothing in this part shall limit the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) to require that jurisdictional rates are just and reasonable, including the ability to deny or approve the pass through of costs, the prevention of cross-subsidization, and the issuance of such rules and regulations as are necessary or appropriate for the protection of utility consumers.

#### (b) Recovery of costs

Nothing in this part shall preclude the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public-utility company, public utility, or natural gas company may recover in rates any costs of an activity performed by an associate company, or any costs of goods or services acquired by such public-utility company from an associate company.

(Pub. L. 109–58, title XII, §1267, Aug. 8, 2005, 119 Stat. 976.)

#### REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle F (§§ 1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

The Federal Power Act, referred to in subsec. (a), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

### § 16456. Applicability

Except as otherwise specifically provided in this part, no provision of this part shall apply to, or be deemed to include—

- (1) the United States;
- (2) a State or any political subdivision of a State;
- (3) any foreign governmental authority not operating in the United States;
- (4) any agency, authority, or instrumentality of any entity referred to in paragraph (1), (2), or (3); or
- (5) any officer, agent, or employee of any entity referred to in paragraph (1), (2), (3), or (4) acting as such in the course of his or her official duty.

(Pub. L. 109–58, title XII, §1268, Aug. 8, 2005, 119 Stat. 976.)

#### REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle F (§§ 1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

### § 16457. Effect on other regulations

Nothing in this part precludes the Commission or a State commission from exercising its jurisdiction under otherwise applicable law to protect utility customers.

(Pub. L. 109–58, title XII, §1269, Aug. 8, 2005, 119 Stat. 976.)

#### REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle F (§§ 1261–1277) of title XII of Pub. L. 109–58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

### § 16458. Enforcement

The Commission shall have the same powers as set forth in sections 825e through 825p of title 16 to enforce the provisions of this part.

(Pub. L. 109-58, title XII, §1270, Aug. 8, 2005, 119 Stat. 976.)

#### REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle F (§§1261-1277) of title XII of Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

### § 16459. Savings provisions

#### (a) In general

Nothing in this part, or otherwise in the Public Utility Holding Company Act of 1935, or rules, regulations, or orders thereunder, prohibits a person from engaging in or continuing to engage in activities or transactions in which it is legally engaged or authorized to engage on August 8, 2005, if that person continues to comply with the terms (other than an expiration date or termination date) of any such authorization, whether by rule or by order.

#### (b) Effect on other Commission authority

Nothing in this part limits the authority of the Commission under the Federal Power Act (16 U.S.C. 791a et seq.) or the Natural Gas Act (15 U.S.C. 717 et seq.).

#### (c) Tax treatment

Tax treatment under section 1081<sup>1</sup> of title 26 as a result of transactions ordered in compliance with the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) shall not be affected in any manner due to the repeal of that Act and the enactment of the Public Utility Holding Company Act of 2005 [42 U.S.C. 16451 et seq.].

(Pub. L. 109-58, title XII, §1271, Aug. 8, 2005, 119 Stat. 976.)

#### REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle F (§§1261-1277) of title XII of Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 972, known as the Public Utility Holding Company Act of 2005, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

The Public Utility Holding Company Act of 1935, referred to in subsecs. (a) and (c), is title I of act Aug. 26, 1935, ch. 687, 49 Stat. 803, as amended, which was classified generally to chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, prior to repeal by Pub. L. 109-58, title XII, §1263, Aug. 8, 2005, 119 Stat. 974. For complete classification of this Act to the Code, see Tables.

The Federal Power Act, referred to in subsec. (b), is act June 10, 1920, ch. 285, 41 Stat. 1063, as amended, which is classified generally to chapter 12 (§791a et seq.) of Title 16, Conservation. For complete classification of this Act to the Code, see section 791a of Title 16 and Tables.

The Natural Gas Act, referred to in subsec. (b), is act June 21, 1938, ch. 556, 52 Stat. 821, as amended, which is

<sup>1</sup> See References in Text note below.

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.

Section 1081 of title 26, referred to in subsec. (c), was repealed by Pub. L. 109-135, title IV, §402(a)(1), Dec. 21, 2005, 119 Stat. 2610.

The Public Utility Holding Company Act of 2005, referred to in subsec. (c), is subtitle F (§§1261-1277) of title XII of Pub. L. 109-58. See note for this part above.

### § 16460. Implementation

Not later than 4 months after August 8, 2005, the Commission shall—

(1) issue such regulations as may be necessary or appropriate to implement this part (other than section 16453 of this title, relating to State access to books and records); and

(2) submit to Congress detailed recommendations on technical and conforming amendments to Federal law necessary to carry out this part and the amendments made by this part.

(Pub. L. 109-58, title XII, §1272, Aug. 8, 2005, 119 Stat. 977.)

#### REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle F (§§1261-1277) of title XII of Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

### § 16461. Transfer of resources

All books and records that relate primarily to the functions transferred to the Commission under this part shall be transferred from the Securities and Exchange Commission to the Commission.

(Pub. L. 109-58, title XII, §1273, Aug. 8, 2005, 119 Stat. 977.)

#### REFERENCES IN TEXT

This part, referred to in text, was in the original “this subtitle”, meaning subtitle F (§§1261-1277) of title XII of Pub. L. 109-58, Aug. 8, 2005, 119 Stat. 972, which enacted this part, amended sections 824 and 824m of Title 16, Conservation, repealed chapter 2C (§79 et seq.) of Title 15, Commerce and Trade, and section 825q of Title 16, and enacted provisions set out as notes under sections 15801 and 16451 of this title. For complete classification of subtitle F to the Code, see Short Title note set out under section 15801 of this title and Tables.

### § 16462. Service allocation

#### (a) Definition of public utility

In this section, the term “public utility” has the meaning given the term in section 824(e) of title 16.

#### (b) FERC review

In the case of non-power goods or administrative or management services provided by an associate company organized specifically for the purpose of providing such goods or services to any public utility in the same holding company system, at the election of the system or a State