

(3) Notwithstanding those provisions of section 825(b) of this title which designate the court in which review may be obtained, any party to a proceeding concerning transmission service sought to be furnished by the Administrator of the Bonneville Power Administration seeking review of an order issued by the Commission in such proceeding shall obtain a review of such order in the United States Court of Appeals for the Pacific Northwest, as that region is defined by section 839a(14) of this title.

(4) To the extent the Administrator of the Bonneville Power Administration cannot be required under section 824j of this title, as a result of the Administrator's other statutory mandates, either to (A) provide transmission service to an applicant which the Commission would otherwise order, or (B) provide such service under rates, terms, and conditions which the Commission would otherwise require, the applicant shall not be required to provide similar transmission services to the Administrator or to provide such services under similar rates, terms, and conditions.

(5) The Commission shall not issue any order under section 824i of this title, section 824j of this title, this section, or section 824l of this title requiring the Administrator of the Bonneville Power Administration to provide transmission service if such an order would impair the Administrator's ability to provide such transmission service to the Administrator's power and transmission customers in the Pacific Northwest, as that region is defined in section 839a(14) of this title, as is needed to assure adequate and reliable service to loads in that region.

(j) Equitability within territory restricted electric systems

With respect to an electric utility which is prohibited by Federal law from being a source of power supply, either directly or through a distributor of its electric energy, outside an area set forth in such law, no order issued under section 824j of this title may require such electric utility (or a distributor of such electric utility) to provide transmission services to another entity if the electric energy to be transmitted will be consumed within the area set forth in such Federal law, unless the order is in furtherance of a sale of electric energy to that electric utility: *Provided, however,* That the foregoing provision shall not apply to any area served at retail by an electric transmission system which was such a distributor on October 24, 1992, and which before October 1, 1991, gave its notice of termination under its power supply contract with such electric utility.

(k) ERCOT utilities

(1) Rates

Any order under section 824j of this title requiring provision of transmission services in whole or in part within ERCOT shall provide that any ERCOT utility which is not a public utility and the transmission facilities of which are actually used for such transmission service is entitled to receive compensation based, insofar as practicable and consistent with subsection (a), on the transmission ratemaking

methodology used by the Public Utility Commission of Texas.

(2) Definitions

For purposes of this subsection—

(A) the term “ERCOT” means the Electric Reliability Council of Texas; and

(B) the term “ERCOT utility” means a transmitting utility which is a member of ERCOT.

(June 10, 1920, ch. 285, pt. II, §212, as added Pub. L. 95-617, title II, §204(a), Nov. 9, 1978, 92 Stat. 3138; amended Pub. L. 102-486, title VII, §722, Oct. 24, 1992, 106 Stat. 2916.)

REFERENCES IN TEXT

The TVA Act, referred to in subsec. (f)(1), means act May 18, 1933, ch. 32, 48 Stat. 58, as amended, known as the Tennessee Valley Authority Act of 1933, which is classified generally to chapter 12A (§831 et seq.) of this title. For complete classification of this Act to the Code, see section 831 of this title and Tables.

The Rural Electrification Act of 1936, referred to in subsec. (h)(2)(A), is act May 20, 1936, ch. 432, 49 Stat. 1363, as amended, which is classified generally to chapter 31 (§901 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see section 901 of Title 7 and Tables.

The Energy Policy Act of 1992, referred to in subsec. (i)(2)(A)(III), (B)(i), 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.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-486, §722(1), added subsec. (a) and struck out former subsec. (a) which related to determinations by Commission.

Subsec. (b). Pub. L. 102-486, §722(1), struck out subsec. (b) which required applicants for orders to be ready, willing, and able to reimburse parties subject to such orders.

Subsec. (e). Pub. L. 102-486, §722(2), amended subsec. (e) generally. Prior to amendment, subsec. (e) related to utilization of interconnection or wheeling authority in lieu of other authority and limitation of Commission authority.

Subsecs. (g) to (k). Pub. L. 102-486, §722(3), added subsecs. (g) to (k).

STATE AUTHORITIES; CONSTRUCTION

Nothing in amendment by Pub. L. 102-486 to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102-486, set out as a note under section 796 of this title.

§ 824I. Information requirements

(a) Requests for wholesale transmission services

Whenever any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale makes a good faith request to a transmitting utility to provide wholesale transmission services and requests specific rates and charges, and other terms and conditions, unless the transmitting utility agrees to provide such services at rates, charges, terms and conditions acceptable to such person, the transmitting utility shall, within 60 days of its receipt of the request, or other mutually agreed upon period, provide such person with a detailed written explanation, with

specific reference to the facts and circumstances of the request, stating (1) the transmitting utility's basis for the proposed rates, charges, terms, and conditions for such services, and (2) its analysis of any physical or other constraints affecting the provision of such services.

(b) Transmission capacity and constraints

Not later than 1 year after October 24, 1992, the Commission shall promulgate a rule requiring that information be submitted annually to the Commission by transmitting utilities which is adequate to inform potential transmission customers, State regulatory authorities, and the public of potentially available transmission capacity and known constraints.

(June 10, 1920, ch. 285, pt. II, §213, as added Pub. L. 102-486, title VII, §723, Oct. 24, 1992, 106 Stat. 2919.)

STATE AUTHORITIES; CONSTRUCTION

Nothing in this section to be construed as affecting or intending to affect, or in any way to interfere with, authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102-486, set out as a note under section 796 of this title.

§ 824m. Sales by exempt wholesale generators

No rate or charge received by an exempt wholesale generator for the sale of electric energy shall be lawful under section 824d of this title if, after notice and opportunity for hearing, the Commission finds that such rate or charge results from the receipt of any undue preference or advantage from an electric utility which is an associate company or an affiliate of the exempt wholesale generator. For purposes of this section, the terms "associate company" and "affiliate" shall have the same meaning as provided in section 16451 of title 42.¹

(June 10, 1920, ch. 285, pt. II, §214, as added Pub. L. 102-486, title VII, §724, Oct. 24, 1992, 106 Stat. 2920; amended Pub. L. 109-58, title XII, §1277(b)(2), Aug. 8, 2005, 119 Stat. 978.)

REFERENCES IN TEXT

Section 16451 of title 42, referred to in text, was in the original "section 2(a) of the Public Utility Holding Company Act of 2005" and was translated as reading "section 1262" of that Act, meaning section 1262 of subtitle F of title XII of Pub. L. 109-58, to reflect the probable intent of Congress, because subtitle F of title XII of Pub. L. 109-58 does not contain a section 2 and section 1262 of subtitle F of title XII of Pub. L. 109-58 defines terms.

AMENDMENTS

2005—Pub. L. 109-58 substituted "section 16451 of title 42" for "section 79b(a) of title 15".

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-58 effective 6 months after Aug. 8, 2005, with provisions relating to effect of compliance with certain regulations approved and made effective prior to such date, see section 1274 of Pub. L. 109-58, set out as an Effective Date note under section 16451 of title 42, The Public Health and Welfare.

STATE AUTHORITIES; CONSTRUCTION

Nothing in this section to be construed as affecting or intending to affect, or in any way to interfere with,

¹ See References in Text note below.

authority of any State or local government relating to environmental protection or siting of facilities, see section 731 of Pub. L. 102-486, set out as a note under section 796 of this title.

§ 824n. Repealed. Pub. L. 109-58, title XII, § 1232(e)(3), Aug. 8, 2005, 119 Stat. 957

Section, Pub. L. 106-377, §1(a)(2) [title III, §311], Oct. 27, 2000, 114 Stat. 1441, 1441A-80, related to authority regarding formation and operation of regional transmission organizations.

§ 824o. Electric reliability

(a) Definitions

For purposes of this section:

(1) The term "bulk-power system" means—

(A) facilities and control systems necessary for operating an interconnected electric energy transmission network (or any portion thereof); and

(B) electric energy from generation facilities needed to maintain transmission system reliability.

The term does not include facilities used in the local distribution of electric energy.

(2) The terms "Electric Reliability Organization" and "ERO" mean the organization certified by the Commission under subsection (c) the purpose of which is to establish and enforce reliability standards for the bulk-power system, subject to Commission review.

(3) The term "reliability standard" means a requirement, approved by the Commission under this section, to provide for reliable operation of the bulk-power system. The term includes requirements for the operation of existing bulk-power system facilities, including cybersecurity protection, and the design of planned additions or modifications to such facilities to the extent necessary to provide for reliable operation of the bulk-power system, but the term does not include any requirement to enlarge such facilities or to construct new transmission capacity or generation capacity.

(4) The term "reliable operation" means operating the elements of the bulk-power system within equipment and electric system thermal, voltage, and stability limits so that instability, uncontrolled separation, or cascading failures of such system will not occur as a result of a sudden disturbance, including a cybersecurity incident, or unanticipated failure of system elements.

(5) The term "Interconnection" means a geographic area in which the operation of bulk-power system components is synchronized such that the failure of one or more of such components may adversely affect the ability of the operators of other components within the system to maintain reliable operation of the facilities within their control.

(6) The term "transmission organization" means a Regional Transmission Organization, Independent System Operator, independent transmission provider, or other transmission organization finally approved by the Commission for the operation of transmission facilities.

(7) The term "regional entity" means an entity having enforcement authority pursuant to subsection (e)(4).