

by such customer or group of customers, if such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this chapter and other applicable laws.

(2) In implementing the provisions of subparagraphs (A) and (B) of paragraph (1), the Administrator may prescribe policies and conditions for the independent acquisition or disposition of electric power by any direct service industrial customer or group of such customers for the purpose of assuring each direct service industrial customer an opportunity to participate in such acquisition or disposition.

(3) The Administrator shall furnish services including transmission, storage, and load factoring unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations. The Administrator shall, to the extent practicable, give priority in making such services available for the marketing, within and without the Pacific Northwest, of capability from projects under construction on December 5, 1980, if such capability has been offered for sale at cost, including a reasonable rate of return, to the Administrator pursuant to this chapter and such offer is not accepted within one year.

(j) Retail rate designs which encourage conservation and efficient use of electric energy, installation of consumer-owned renewable resources, and rate research and development

(1) The Council, as soon as practicable after December 5, 1980 shall prepare, in consultation with the Administrator, the customers, appropriate State regulatory bodies, and the public, a report and shall make recommendations with respect to the various retail rate designs which will encourage conservation and efficient use of electric energy and the installation of consumer-owned renewable resources on a cost-effective basis, as well as areas for research and development for possible application to retail utility rates within the region. Studies undertaken pursuant to this subsection shall not affect the responsibilities of any customer or the Administrator which may exist under the Public Utility Regulatory Policies Act of 1978.

(2) Upon request, and solely on behalf of customers so requesting, the Administrator is authorized to (A) provide assistance in analyzing and developing retail rate structures that will encourage cost-effective conservation and the installation of cost-effective consumer-owned renewable resources; (B) provide estimates of the probable power savings and the probable amount of billing credits under section 839d(h) of this title that might be realized by such customers as a result of adopting and implementing such retail rate structures; and (C) solicit additional information and analytical assistance from appropriate State regulatory bodies and the Administrator's other customers.

(k) Executive position for conservation and renewable resources

There is hereby established within the administration an executive position for conservation

and renewable resources. Such executive shall be appointed by the Administrator and shall be assigned responsibility for conservation and direct-application renewable resource programs (including the administration of financial assistance for such programs). Such position is hereby established in the senior executive service in addition to the number of such positions heretofore established in accordance with other provisions of law applicable to such positions.

(Pub. L. 96-501, § 9, Dec. 5, 1980, 94 Stat. 2729; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

REFERENCES IN TEXT

The Bonneville Project Act of 1937, referred to in subsections (b) and (e)(5), is act Aug. 20, 1937, ch. 720, 50 Stat. 731, as amended, which is classified generally to chapter 12B (§832 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 832 of this title and Tables.

Act of August 31, 1964, referred to in subsection (e)(5), is Pub. L. 88-552, Aug. 31, 1964, 78 Stat. 756, as amended, which is classified generally to chapter 12F (§837 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

The Federal Columbia River Transmission System Act, referred to in subsection (e)(5), is Pub. L. 93-454, Oct. 18, 1974, 88 Stat. 1376, as amended, which is classified generally to chapter 12G (§838 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 838 of this title and Tables.

Section 103 of title 26, referred to in subsection (f), which related to interest on certain governmental obligations was amended generally by Pub. L. 99-514, title XIII, §1301(a), Oct. 22, 1986, 100 Stat. 2602, and as so amended relates to interest on State and local bonds. Section 103(b)(3), which prior to the general amendment defined exempt persons, relates to the applicability of the interest exclusion to bonds not in registered form, etc.

Chapter 2C of title 15, referred to in subsection (h), contained the Public Utility Holding Company Act of 1935, act Aug. 26, 1935, ch. 687, title I, 49 Stat. 803, as amended, and consisted of section 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 Public Utility Regulatory Policies Act of 1978, referred to in subsection (j)(1), is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, as amended. For complete classification of this Act to Code, see Short Title note set out under section 2601 of this title and Tables.

AMENDMENTS

1986—Subsec. (f). Pub. L. 99-514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

§ 839g. Savings provisions

(a) Rights of States and political subdivisions of States

Nothing in this chapter shall be construed to affect or modify any right of any State or political subdivision thereof or electric utility to—

(1) determine retail electric rates, except as provided by section 839c(c)(3) of this title;

(2) develop and implement plans and programs for the conservation, development, and use of resources; or

(3) make energy facility siting decisions, including, but not limited to, determining the need for a particular facility, evaluating alternative sites, and considering alternative methods of meeting the determined need.

(b) Rights and obligations under existing contracts

Nothing in this chapter shall alter, diminish, or abridge the rights and obligations of the Administrator or any customer under any contract existing as of December 5, 1980.

(c) Statutory preferences and priorities of public bodies and cooperatives in sale of federally generated power

Nothing in this chapter shall alter, diminish, abridge, or otherwise affect the provisions of other Federal laws by which public bodies and cooperatives are entitled to preference and priority in the sale of federally generated electric power.

(d) Contractual rights under provisions later found to be unconstitutional

If any provision of this chapter is found to be unconstitutional, then any contract entered into by the Administrator, prior to such finding and in accordance with such provisions, to sell power, acquire or credit resources, or to reimburse investigation and preconstruction expenses pursuant to section 839c of this title, and section 839d(a), (f) or (h) of this title shall not be affected by such finding.

(e) Treaty and other rights of Indian tribes

Nothing in this chapter shall be construed to affect or modify any treaty or other right of an Indian tribe.

(f) Reservation of electric power for Montana; Hungry Horse and Libby Dams and Reservoirs

The reservation under law of electric power primarily for use in the State of Montana by reason of the construction of Hungry Horse and Libby Dams and Reservoirs within that State is hereby affirmed. Such reservation shall also apply to 50 per centum of any electric power produced at Libby Reregulating Dam if built. Electric power so reserved shall be sold at the rate or rates set pursuant to section 839e of this title.

(g) Rights of States to prohibit recovery of resource construction costs through retail rates

Nothing in this chapter shall be construed to affect or modify the right of any State to prohibit utilities regulated by the appropriate State regulatory body from recovering, through their retail rates, costs during any period of resource construction.

(h) Water appropriations

Nothing in this chapter shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this chapter of any plan or program adopted pursuant to the chapter (1) affect the rights or jurisdictions of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground-water resource, (2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States, or (3) otherwise be construed to alter or establish the respective rights of States, the United States, In-

dian tribes, or any person with respect to any water or water-related right.

(i) Existing Federal licenses, permits, and certificates

Nothing in this chapter shall be construed to affect the validity of any existing license, permit, or certificate issued by any Federal agency pursuant to any other Federal law.

(Pub. L. 96-501, § 10, Dec. 5, 1980, 94 Stat. 2734.)

§ 839h. Separability

If any provision of section 839b(a) through (c) of this title or any other provision of this chapter or the application thereof to any person, State, Indian tribe, entity, or circumstance is held invalid, neither the remainder of section 839b of this title or any other provisions of this chapter, nor the application of such provisions to other persons, States, Indian tribes, entities, or circumstances, shall be affected thereby.

(Pub. L. 96-501, § 12, Dec. 5, 1980, 94 Stat. 2736.)

CHAPTER 13—REGULATION OF TRANSPORTATION IN INTERSTATE OR FOREIGN COMMERCE OF BLACK BASS AND OTHER FISH**§§ 851 to 856. Repealed. Pub. L. 97-79, § 9(b)(1), Nov. 16, 1981, 95 Stat. 1079**

Section 851, acts May 20, 1926 ch 346, § 1, 44 Stat. 576; July 2, 1930, ch. 801, 46 Stat. 845; July 30, 1947, ch. 348, 61 Stat. 517; July 16, 1952, ch. 911, § 1, 66 Stat. 736; Dec. 5, 1969, Pub. L. 91-135, § 9(d), 83 Stat. 282, defined the terms "person" and "State". See section 3371 of this title.

Section 852, acts May 20, 1926, ch. 346, § 2, 44 Stat. 576; July 2, 1930, ch. 801, 46 Stat. 845; July 30, 1947, ch. 348, 61 Stat. 517; July 16, 1952, ch. 911, § 2, 66 Stat. 736; Dec. 5, 1969, Pub. L. 91-135, § 9(a), 83 Stat. 281, made illegal the transportation of illegally taken black bass or other fish. See section 3372 of this title.

Section 852a, act May 20, 1926, ch. 346, § 3, as added July 2, 1930, ch. 801, 46 Stat. 846; amended July 30, 1947, ch. 348, 61 Stat. 517; July 16, 1952, ch. 911, § 2, 66 Stat. 736; Dec. 5, 1969, Pub. L. 91-135, § 9(b), 83 Stat. 282, provided for the markings on the outside of packages and containers used in the transportation of fish. See section 3376(a) of this title.

Section 852b, act May 20, 1926, ch. 346, § 4, as added July 2, 1930, ch. 801, 46 Stat. 846; amended July 30, 1947, ch. 348, 61 Stat. 517; July 16, 1952, ch. 911, § 2, 66 Stat. 736, related to the application of State laws with regard to fish arriving in the State. See section 3378(a) of this title.

Section 852c, act May 20, 1926, ch. 346, § 5, as added July 2, 1930, ch. 801, 46 Stat. 846; amended 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; July 30, 1947, ch. 348, 61 Stat. 517; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, authorized the making of expenditures by the Secretary in carrying out the responsibilities under this chapter. See section 3378(d) and (e) of this title.

Section 852d, act May 20, 1926, ch. 346, § 6, as added July 2, 1930, ch. 801, 46 Stat. 846; amended 1939 Reorg. Plan No. II, § 4(e), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; July 30, 1947, ch. 348, 61 Stat. 517; Oct. 17, 1968, Pub. L. 90-578, title IV, § 402(b)(2), 82 Stat. 1118; Dec. 5, 1969, Pub. L. 91-135, § 9(c), 83 Stat. 282; 1970 Reorg. Plan No. 4, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, related to the power of arrest without warrant, utilization of Federal agencies, searches and seizures, and forfeitures. See sections 3374 and 3375 of this title.

Section 853, act May 20, 1926, ch. 346, § 7, as added July 2, 1930, ch. 801, 46 Stat. 847; amended July 30, 1947, ch.