

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(B), was in the original “this title”, meaning title I (§101 et seq.) of Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3120, which enacted subchapters I to IV of this chapter and section 6808 of Title 42, The Public Health and Welfare, and amended sections 6802 to 6807 of Title 42. For complete classification of title I to the Code, see Tables.

CODIFICATION

“October 24, 1992”, referred to in subsec. (b)(1), (2), was in the original “the enactment of the Comprehensive National Energy Policy Act”, and was translated as meaning the enactment of the Energy Policy Act of 1992, Pub. L. 102-486, to reflect the probable intent of Congress. The Comprehensive National Energy Policy Act was the original short title of H.R. 776, which was enacted into law on Oct. 24, 1992, as Pub. L. 102-486.

AMENDMENTS

2021—Subsec. (b)(7). Pub. L. 117-58, §40104(a)(2)(A), added par. (7).

Subsec. (b)(8). Pub. L. 117-58, §40431(b)(1), added par. (8).

Subsec. (c). Pub. L. 117-58, §40431(b)(2), inserted at end “In the case of the standard established by paragraph (21) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to November 15, 2021.”

Pub. L. 117-58, §40104(a)(2)(B)(i), substituted “August 8, 2005. In the case of the standard established by paragraph (15) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005. In the case of the standards established by paragraphs (16)” for “August 8, 2005. In the case of the standards established by paragraphs (16)” and inserted at end “In the case of the standard established by paragraph (20) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to November 15, 2021.”

Subsec. (d). Pub. L. 117-58, §40104(a)(2)(B)(ii), repealed Pub. L. 109-58, §1254(b)(2). See 2005 Amendment note below.

Subsec. (g). Pub. L. 117-58, §40104(a)(2)(C)(i), added subsec. (g).

Subsec. (h). Pub. L. 117-58, §40431(b)(3)(A), added subsec. (h).

2009—Subsecs. (b)(6), (d). Pub. L. 111-5 substituted “(16) through (19)” for “(17) through (18)” wherever appearing.

2007—Subsec. (b)(6). Pub. L. 110-140, §1307(b)(1), added par. (6).

Subsec. (c). Pub. L. 110-140, §1307(b)(2), inserted at end “In the case of the standards established by paragraphs (16) through (19) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to December 19, 2007.”

Subsec. (d). Pub. L. 110-140, §1307(b)(3), inserted “and paragraphs (17) through (18)” before “of section 2621(d)” in introductory provisions.

2005—Subsec. (b)(3). Pub. L. 109-58, §1251(b)(1), added par. (3).

Subsec. (b)(4). Pub. L. 109-58, §1252(g), added par. (4).

Subsec. (b)(5). Pub. L. 109-58, §1254(b)(1), added par. (5).

Subsec. (c). Pub. L. 109-58, §1252(h), inserted at end “In the case of the standard established by paragraph (14) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005.”

Pub. L. 109-58, §1251(b)(2), inserted at end “In the case of each standard established by paragraphs (11) through (13) of section 2621(d) of this title, the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005.”

Subsec. (d). Pub. L. 109-58, §1254(b)(2), which directed amendment of subsec. (d) by inserting at end “In the

case of the standard established by paragraph (15), the reference contained in this subsection to November 9, 1978, shall be deemed to be a reference to August 8, 2005.”, was repealed and made void by Pub. L. 117-58, §40104(a)(2)(B)(ii). See Effective Date of 2021 Amendment note below.

Pub. L. 109-58, §1251(b)(3)(A), added subsec. (d).

Subsec. (e). Pub. L. 109-58, §1252(i)(1), added subsec. (e).

Subsec. (f). Pub. L. 109-58, §1254(b)(3)(A), added subsec. (f).

1992—Subsec. (b)(1), (2). Pub. L. 102-486 inserted “(or after October 24, 1992, in the case of standards under paragraphs (7), (8), and (9) of section 2621(d) of this title)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2021 AMENDMENT

Pub. L. 117-58, div. D, title I, §40104(a)(2)(B)(ii), Nov. 15, 2021, 135 Stat. 931, provided that: “Paragraph (2) of section 1254(b) of the Energy Policy Act of 2005 (Public Law 109-58; 119 Stat. 971) [amending this section] is repealed and the amendment made by that paragraph (as in effect on the day before the date of enactment of this Act [Nov. 15, 2021]) is void, and section 112(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2622(d)) shall be in effect as if that amendment had not been enacted.”

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.

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117-58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

§ 2623. Adoption of certain standards**(a) Adoption of standards**

Not later than two years after November 9, 1978, each State regulatory authority (with respect to each electric utility for which it has ratemaking authority), and each nonregulated electric utility, shall provide public notice and conduct a hearing respecting the standards established by subsection (b) and, on the basis of such hearing, shall—

(1) adopt the standards established by subsection (b) (other than paragraph (4) thereof) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate to carry out the purposes of this chapter, is otherwise appropriate, and is consistent with otherwise applicable State law, and

(2) adopt the standard established by subsection (b)(4) if, and to the extent, such authority or nonregulated electric utility determines that such adoption is appropriate and consistent with otherwise applicable State law.

For purposes of any determination under paragraphs (1) or (2) and any review of such determination in any court in accordance with section 2633 of this title, the purposes of this chapter supplement otherwise applicable State law. Nothing in this subsection prohibits any State

regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any such standard, pursuant to its authority under otherwise applicable State law.

(b) Establishment

The following Federal standards are hereby established:

(1) Master metering

To the extent determined appropriate under section 2625(d) of this title, master metering of electric service in the case of new buildings shall be prohibited or restricted to the extent necessary to carry out the purposes of this chapter.

(2) Automatic adjustment clauses

No electric utility may increase any rate pursuant to an automatic adjustment clause unless such clause meets the requirements of section 2625(e) of this title.

(3) Information to consumers

Each electric utility shall transmit to each of its electric consumers information regarding rate schedules in accordance with the requirements of section 2625(f) of this title.

(4) Procedures for termination of electric service

No electric utility may terminate electric service to any electric consumer except pursuant to procedures described in section 2625(g) of this title.

(5) Advertising

No electric utility may recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising as defined in section 2625(h) of this title.

(c) Procedural requirements

Each State regulatory authority (with respect to each electric utility for which it has rate-making authority) and each nonregulated electric utility, within the two-year period specified in subsection (a), shall (1) adopt, pursuant to subsection (a), each of the standards established by subsection (b) or, (2) with respect to any such standard which is not adopted, such authority or nonregulated electric 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.

(Pub. L. 95-617, title I, § 113, Nov. 9, 1978, 92 Stat. 3123.)

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§ 2624. Lifeline rates

(a) Lower rates

No provision of this chapter prohibits a State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or a nonregulated electric utility from fixing, approving, or allowing to go into effect a rate for essential needs (as defined by the State regulatory authority or by the nonregulated electric utility, as the case may be) of residential electric consumers which is lower than a rate under the standard referred to in section 2621(d)(1) of this title.

(b) Determination

If any State regulated electric utility or nonregulated electric utility does not have a lower rate as described in subsection (a) in effect two years after November 9, 1978, the State regulatory authority having ratemaking authority with respect to such State regulated electric utility or the nonregulated electric utility, as the case may be, shall determine, after an evidentiary hearing, whether such a rate should be implemented by such utility.

(c) Prior proceedings

Section 2634 of this title shall not apply to the requirements of this section.

(Pub. L. 95-617, title I, § 114, Nov. 9, 1978, 92 Stat. 3124.)

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§ 2625. Special rules for standards

(a) Cost of service

In undertaking the consideration and making the determination under section 2621 of this title with respect to the standard concerning cost of service established by section 2621(d)(1) of this title, the costs of providing electric service to each class of electric consumers shall, to the maximum extent practicable, be determined on the basis of methods prescribed by the State regulatory authority (in the case of a State regulated electric utility) or by the electric utility (in the case of a nonregulated electric utility). Such methods shall to the maximum extent practicable—

(1) permit identification of differences in cost-incurrence, for each such class of electric consumers, attributable to daily and seasonal time of use of service and

(2) permit identification of differences in cost-incurrence attributable to differences in customer demand, and energy components of cost. In prescribing such methods, such State regulatory authority or nonregulated electric utility shall take into account the extent to which total costs to an electric utility are likely to change if—