

Pub. L. 99-509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

§ 6344. Additional incentives for recovery, use, and prevention of industrial waste energy

(a) Consideration of standard

(1) In general

Not later than 180 days after the receipt by a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority), or nonregulated electric utility, of a request from a project sponsor or owner or operator, the State regulatory authority or nonregulated electric utility shall—

(A) provide public notice and conduct a hearing respecting the standard established by subsection (b); and

(B) on the basis of the hearing, consider and make a determination whether or not it is appropriate to implement the standard to carry out the purposes of this part.

(2) Relationship to State law

For purposes of any determination under paragraph (1) and any review of the determination in any court, the purposes of this section supplement otherwise applicable State law.

(3) Nonadoption of standard

Nothing in this part prohibits any State regulatory authority or nonregulated electric utility from making any determination that it is not appropriate to adopt any standard described in paragraph (1), pursuant to authority under otherwise applicable State law.

(b) Standard for sales of excess power

For purposes of this section, the standard referred to in subsection (a) shall provide that an owner or operator of a waste energy recovery project identified on the Registry that generates net excess power shall be eligible to benefit from at least 1 of the options described in subsection (c) for disposal of the net excess power in accordance with the rate conditions and limitations described in subsection (d).

(c) Options

The options referred to in subsection (b) are as follows:

(1) Sale of net excess power to utility

The electric utility shall purchase the net excess power from the owner or operator of the eligible waste energy recovery project during the operation of the project under a contract entered into for that purpose.

(2) Transport by utility for direct sale to third party

The electric utility shall transmit the net excess power on behalf of the project owner or operator to up to 3 separate locations on the system of the utility for direct sale by the owner or operator to third parties at those locations.

(3) Transport over private transmission lines

The State and the electric utility shall permit, and shall waive or modify such laws as would otherwise prohibit, the construction and operation of private electric wires constructed, owned, and operated by the project owner or operator, to transport the power to up to 3 purchasers within a 3-mile radius of the project, allowing the wires to use or cross public rights-of-way, without subjecting the project to regulation as a public utility, and according the wires the same treatment for safety, zoning, land use, and other legal privileges as apply or would apply to the wires of the utility, except that—

(A) there shall be no grant of any power of eminent domain to take or cross private property for the wires; and

(B) the wires shall be physically segregated and not interconnected with any portion of the system of the utility, except on the customer side of the revenue meter of the utility and in a manner that precludes any possible export of the electricity onto the utility system, or disruption of the system.

(4) Agreed on alternatives

The utility and the owner or operator of the project may reach agreement on any alternate arrangement and payments or rates associated with the arrangement that is mutually satisfactory and in accord with State law.

(d) Rate conditions and criteria

(1) Definitions

In this subsection:

(A) Per unit distribution costs

The term “per unit distribution costs” means (in kilowatt hours) the quotient obtained by dividing—

(i) the depreciated book-value distribution system costs of a utility; by

(ii) the volume of utility electricity sales or transmission during the previous year at the distribution level.

(B) Per unit distribution margin

The term “per unit distribution margin” means—

(i) in the case of a State-regulated electric utility, a per-unit gross pretax profit equal to the product obtained by multiplying—

(I) the State-approved percentage rate of return for the utility for distribution system assets; by

(II) the per unit distribution costs; and

(ii) in the case of a nonregulated utility, a per unit contribution to net revenues determined multiplying—

(I) the percentage (but not less than 10 percent) obtained by dividing—

(aa) the amount of any net revenue payment or contribution to the owners or subscribers of the nonregulated utility during the prior year; by

(bb) the gross revenues of the utility during the prior year to obtain a percentage; by

(II) the per unit distribution costs.

(C) Per unit transmission costs

The term “per unit transmission costs” means the total cost of those transmission services purchased or provided by a utility on a per-kilowatt-hour basis as included in the retail rate of the utility.

(2) Options

The options described in paragraphs (1) and (2) in subsection (c) shall be offered under purchase and transport rate conditions that reflect the rate components defined under paragraph (1) as applicable under the circumstances described in paragraph (3).

(3) Applicable rates

(A) Rates applicable to sale of net excess power

(i) In general

Sales made by a project owner or operator of a facility under the option described in subsection (c)(1) shall be paid for on a per kilowatt hour basis that shall equal the full undiscounted retail rate paid to the utility for power purchased by the facility minus per unit distribution costs, that applies to the type of utility purchasing the power.

(ii) Voltages exceeding 25 kilovolts

If the net excess power is made available for purchase at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be available for resale by the utility, the purchase price shall further be reduced by per unit transmission costs.

(B) Rates applicable to transport by utility for direct sale to third parties

(i) In general

Transportation by utilities of power on behalf of the owner or operator of a project under the option described in subsection (c)(2) shall incur a transportation rate that shall equal the per unit distribution costs and per unit distribution margin, that applies to the type of utility transporting the power.

(ii) Voltages exceeding 25 kilovolts

If the net excess power is made available for transportation at voltages that must be transformed to or from voltages exceeding 25 kilovolts to be transported to the designated third-party purchasers, the transport rate shall further be increased by per unit transmission costs.

(iii) States with competitive retail markets for electricity

In a State with a competitive retail market for electricity, the applicable transportation rate for similar transportation shall be applied in lieu of any rate calculated under this paragraph.

(4) Limitations

(A) In general

Any rate established for sale or transportation under this section shall—

(i) be modified over time with changes in the underlying costs or rates of the electric utility; and

(ii) reflect the same time-sensitivity and billing periods as are established in the retail sales or transportation rates offered by the utility.

(B) Limitation

No utility shall be required to purchase or transport a quantity of net excess power under this section that exceeds the available capacity of the wires, meter, or other equipment of the electric utility serving the site unless the owner or operator of the project agrees to pay necessary and reasonable upgrade costs.

(e) Procedural requirements for consideration and determination

(1) Public notice and hearing

(A) In general

The consideration referred to in subsection (a) shall be made after public notice and hearing.

(B) Administration

The determination referred to in subsection (a) shall be—

(i) in writing;

(ii) based on findings included in the determination and on the evidence presented at the hearing; and

(iii) available to the public.

(2) Intervention by Administrator

The Administrator may intervene as a matter of right in a proceeding conducted under this section—

(A) to calculate—

(i) the energy and emissions likely to be saved by electing to adopt 1 or more of the options; and

(ii) the costs and benefits to ratepayers and the utility; and

(B) to advocate for the waste-energy recovery opportunity.

(3) Procedures

(A) In general

Except as otherwise provided in paragraphs (1) and (2), the procedures for the consideration and determination referred to in subsection (a) shall be the procedures established by the State regulatory authority or the nonregulated electric utility.

(B) Multiple projects

If there is more than 1 project seeking consideration simultaneously in connection with the same utility, the proceeding may encompass all such projects, if full attention is paid to individual circumstances and merits and an individual judgment is reached with respect to each project.

(f) Implementation

(1) In general

The State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility may, to the extent consistent with otherwise applicable State law—

(A) implement the standard determined under this section; or

(B) decline to implement any such standard.

(2) Nonimplementation of standard

(A) In general

If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement any standard established by this section, the authority or nonregulated electric utility shall state in writing the reasons for declining to implement the standard.

(B) Availability to public

The statement of reasons shall be available to the public.

(C) Annual report

The Administrator shall include in an annual report submitted to Congress a description of the lost opportunities for waste-heat recovery from the project described in subparagraph (A), specifically identifying the utility and stating the quantity of lost energy and emissions savings calculated.

(D) New petition

If a State regulatory authority (with respect to each electric utility for which the authority has ratemaking authority) or nonregulated electric utility declines to implement the standard established by this section, the project sponsor may submit a new petition under this section with respect to the project at any time after the date that is 2 years after the date on which the State regulatory authority or nonregulated utility declined to implement the standard.

(Pub. L. 94-163, title III, §374, as added Pub. L. 110-140, title IV, §451(a), Dec. 19, 2007, 121 Stat. 1628.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 6344 and 6344a were repealed by Pub. L. 99-509, title III, §3101(b), Oct. 21, 1986, 100 Stat. 1888.

Section 6344, Pub. L. 94-163, title III, §374, Dec. 22, 1975, 89 Stat. 936; Pub. L. 95-619, title VI, §691(b)(2), Nov. 9, 1978, 92 Stat. 3288, related to establishment of individual energy improvement targets for each of the 10 most energy-consumptive industries.

Section 6344a, Pub. L. 94-163, title III, §374A, as added Pub. L. 95-619, title IV, §461(c), Nov. 9, 1978, 92 Stat. 3273, related to targets for increased utilization of energy-saving recovered materials for specified industries.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

§ 6345. CHP Technical Assistance Partnership Program

(a) Renaming

(1) In general

The Clean Energy Application Centers of the Department of Energy are redesignated as the

CHP Technical Assistance Partnership Program (referred to in this section as the “Program”).

(2) Program description

The Program shall consist of—

(A) the 10 regional CHP Technical Assistance Partnerships in existence on December 27, 2020;

(B) such other regional CHP Technical Assistance Partnerships as the Secretary may establish with consideration given to establishing such partnerships in rural communities; and

(C) any supporting technical activities under the Technical Partnership Program of the Advanced Manufacturing Office.

(3) References

Any reference in any law, rule, regulation, or publication to a Combined Heat and Power Application Center or a Clean Energy Application Center shall be deemed to be a reference to the Program.

(b) CHP Technical Assistance Partnership Program

(1) In general

The Program shall—

(A) operate programs to encourage deployment of combined heat and power, waste heat to power, and efficient district energy (collectively referred to in this subsection as “CHP”) technologies by providing education and outreach to—

(i) building, industrial, and electric and natural gas utility professionals;

(ii) State and local policymakers; and

(iii) other individuals and organizations with an interest in efficient energy use, local or opportunity fuel use, resiliency, or energy security, microgrids, and district energy; and

(B) provide project specific support to building and industrial professionals through economic and engineering assessments and advisory activities.

(2) Funding for certain activities

(A) In general

The Program shall make funds available to institutions of higher education, research centers, and other appropriate institutions to ensure the continued operations and effectiveness of the regional CHP Technical Assistance Partnerships.

(B) Use of funds

Funds made available under subparagraph (A) may be used—

(i) to collect and distribute informational materials relevant to manufacturers, commercial buildings, institutional facilities, and Federal sites, including continued support of the mission goals of the Department of Defense, on CHP and microgrid technologies, including continuation and updating of—

(I) the CHP installation database;

(II) CHP technology potential analyses;

(III) State CHP resource pages; and