

§ 824s. Transmission infrastructure investment**(a) Rulemaking requirement**

Not later than 1 year after August 8, 2005, the Commission shall establish, by rule, incentive-based (including performance-based) rate treatments for the transmission of electric energy in interstate commerce by public utilities for the purpose of benefitting consumers by ensuring reliability and reducing the cost of delivered power by reducing transmission congestion.

(b) Contents

The rule shall—

(1) promote reliable and economically efficient transmission and generation of electricity by promoting capital investment in the enlargement, improvement, maintenance, and operation of all facilities for the transmission of electric energy in interstate commerce, regardless of the ownership of the facilities;

(2) provide a return on equity that attracts new investment in transmission facilities (including related transmission technologies);

(3) encourage deployment of transmission technologies and other measures to increase the capacity and efficiency of existing transmission facilities and improve the operation of the facilities; and

(4) allow recovery of—

(A) all prudently incurred costs necessary to comply with mandatory reliability standards issued pursuant to section 824o of this title; and

(B) all prudently incurred costs related to transmission infrastructure development pursuant to section 824p of this title.

(c) Incentives

In the rule issued under this section, the Commission shall, to the extent within its jurisdiction, provide for incentives to each transmitting utility or electric utility that joins a Transmission Organization. The Commission shall ensure that any costs recoverable pursuant to this subsection may be recovered by such utility through the transmission rates charged by such utility or through the transmission rates charged by the Transmission Organization that provides transmission service to such utility.

(d) Just and reasonable rates

All rates approved under the rules adopted pursuant to this section, including any revisions to the rules, are subject to the requirements of sections 824d and 824e of this title that all rates, charges, terms, and conditions be just and reasonable and not unduly discriminatory or preferential.

(June 10, 1920, ch. 285, pt. II, §219, as added Pub. L. 109-58, title XII, §1241, Aug. 8, 2005, 119 Stat. 961.)

§ 824s-1. Incentives for cybersecurity investments**(a) Definitions**

In this section:

(1) Advanced cybersecurity technology

The term “advanced cybersecurity technology” means any technology, operational

capability, or service, including computer hardware, software, or a related asset, that enhances the security posture of public utilities through improvements in the ability to protect against, detect, respond to, or recover from a cybersecurity threat (as defined in section 650 of title 6).

(2) Advanced cybersecurity technology information

The term “advanced cybersecurity technology information” means information relating to advanced cybersecurity technology or proposed advanced cybersecurity technology that is generated by or provided to the Commission or another Federal agency.

(b) Study

Not later than 180 days after November 15, 2021, the Commission, in consultation with the Secretary of Energy, the North American Electric Reliability Corporation, the Electricity Subsector Coordinating Council, and the National Association of Regulatory Utility Commissioners, shall conduct a study to identify incentive-based, including performance-based, rate treatments for the transmission and sale of electric energy subject to the jurisdiction of the Commission that could be used to encourage—

(1) investment by public utilities in advanced cybersecurity technology; and

(2) participation by public utilities in cybersecurity threat information sharing programs.

(c) Incentive-based rate treatment

Not later than 1 year after the completion of the study under subsection (b), the Commission shall establish, by rule, incentive-based, including performance-based, rate treatments for the transmission of electric energy in interstate commerce and the sale of electric energy at wholesale in interstate commerce by public utilities for the purpose of benefitting consumers by encouraging—

(1) investments by public utilities in advanced cybersecurity technology; and

(2) participation by public utilities in cybersecurity threat information sharing programs.

(d) Factors for consideration

In issuing a rule pursuant to this section, the Commission may provide additional incentives beyond those identified in subsection (c) in any case in which the Commission determines that an investment in advanced cybersecurity technology or information sharing program costs will reduce cybersecurity risks to—

(1) defense critical electric infrastructure (as defined in section 824o-1(a) of this title) and other facilities subject to the jurisdiction of the Commission that are critical to public safety, national defense, or homeland security, as determined by the Commission in consultation with—

(A) the Secretary of Energy;

(B) the Secretary of Homeland Security; and

(C) other appropriate Federal agencies; and

(2) facilities of small or medium-sized public utilities with limited cybersecurity resources, as determined by the Commission.

(e) Ratepayer protection**(1) In general**

Any rate approved under a rule issued pursuant to this section, including any revisions to that rule, shall be subject to the requirements of sections 824d and 824e of this title that all rates, charges, terms, and conditions—

(A) shall be just and reasonable; and

(B) shall not be unduly discriminatory or preferential.

(2) Prohibition of duplicate recovery

Any rule issued pursuant to this section shall preclude rate treatments that allow unjust and unreasonable double recovery for advanced cybersecurity technology.

(f) Single-issue rate filings

The Commission shall permit public utilities to apply for incentive-based rate treatment under a rule issued under this section on a single-issue basis by submitting to the Commission a tariff schedule under section 824d of this title that permits recovery of costs and incentives over the depreciable life of the applicable assets, without regard to changes in receipts or other costs of the public utility.

(g) Protection of information

Advanced cybersecurity technology information that is provided to, generated by, or collected by the Federal Government under subsection (b), (c), or (f) shall be considered to be critical electric infrastructure information under section 824o-1 of this title.

(June 10, 1920, ch. 285, pt. II, § 219A, as added Pub. L. 117-58, div. D, title I, § 40123, Nov. 15, 2021, 135 Stat. 951; amended Pub. L. 117-263, div. G, title LXXI, § 7143(d)(2), Dec. 23, 2022, 136 Stat. 3663.)

Editorial Notes**AMENDMENTS**

2022—Subsec. (a)(1). Pub. L. 117-263 substituted “section 650 of title 6” for “section 1501 of title 6”.

Statutory Notes and Related Subsidiaries**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.

§ 824t. Electricity market transparency rules**(a) In general**

(1) The Commission is directed to facilitate price transparency in markets for the sale and transmission of electric energy in interstate commerce, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(2) The Commission may prescribe such rules as the Commission determines necessary and appropriate to carry out the purposes of this section. The rules shall provide for the dissemination, on a timely basis, of information about the availability and prices of wholesale electric energy and transmission service to the Commis-

sion, State commissions, buyers and sellers of wholesale electric energy, users of transmission services, and the public.

(3) The Commission may—

(A) obtain the information described in paragraph (2) from any market participant; and

(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b).

(4) In carrying out this section, the Commission shall consider the degree of price transparency provided by existing price publishers and providers of trade processing services, and shall rely on such publishers and services to the maximum extent possible. The Commission may establish an electronic information system if it determines that existing price publications are not adequately providing price discovery or market transparency. Nothing in this section, however, shall affect any electronic information filing requirements in effect under this chapter as of August 8, 2005.

(b) Exemption of information from disclosure

(1) Rules described in subsection (a)(2), if adopted, shall exempt from disclosure information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize system security.

(2) In determining the information to be made available under this section and time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

(c) Information sharing

(1) Within 180 days of August 8, 2005, the Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission relating to information sharing, which shall include, among other things, provisions ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests, and provisions regarding the treatment of proprietary trading information.

(2) Nothing in this section may be construed to limit or affect the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(d) Exemption from reporting requirements

The Commission shall not require entities who have a de minimis market presence to comply with the reporting requirements of this section.

(e) Penalties for violations occurring before notice

(1) Except as provided in paragraph (2), no person shall be subject to any civil penalty under this section with respect to any violation occurring more than 3 years before the date on which the person is provided notice of the proposed penalty under section 825o-1 of this title.

(2) Paragraph (1) shall not apply in any case in which the Commission finds that a seller that