Secretary to make incentive payments to eligible owners or operators of advanced power system technologies to increase power generation through enhanced operational, economic, and environmental performance. Payments under this section may only be made upon receipt by the Secretary of an incentive payment application establishing an applicant as either—

(1) a qualifying advanced power system technology facility; or

(2) a qualifying security and assured power facility.

(b) Incentives

Subject to availability of funds, a payment of 1.8 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying advanced power system technology facility under this section for electricity generated at such facility. An additional 0.7 cents per kilowatt-hour shall be paid to the owner or operator of a qualifying security and assured power facility for electricity generated at such facility. Any facility qualifying under this section shall be eligible for an incentive payment for up to, but not more than, the first 10,000,000 kilowatt-hours produced in any fiscal year.

(c) Eligibility

For purposes of this section:

(1) Qualifying advanced power system technology facility

The term ''qualifying advanced power system technology facility'' means a facility using an advanced fuel cell, turbine, or hybrid power system or power storage system to generate or store electric energy.

(2) Qualifying security and assured power facility

The term ''qualifying security and assured power facility'' means a qualifying advanced power system technology facility determined by the Secretary, in consultation with the Secretary of Homeland Security, to be in critical need of secure, reliable, rapidly available, high-quality power for critical governmental, industrial, or commercial applications.

(d) Authorization

There are authorized to be appropriated to the Secretary for the purposes of this section, $10,000,000 for each of the fiscal years 2006 through 2012.

(Pub. L. 109–58, title XII, §1224, Aug. 8, 2005, 119 Stat. 954.)

PART B—TRANSMISSION OPERATION IMPROVEMENTS

§ 16431. Federal utility participation in transmission organizations

(a) Definitions

In this section:

(1) Appropriate Federal regulatory authority

The term ''appropriate Federal regulatory authority'' means—

(A) in the case of a Federal power marketing agency, the Secretary, except that the Secretary may designate the Administrator of a Federal power marketing agency to act as the appropriate Federal regulatory authority with respect to the transmission system of the Federal power marketing agency; and

(B) in the case of the Tennessee Valley Authority, the Board of Directors of the Tennessee Valley Authority.

(2) Federal power marketing agency

The term ''Federal power marketing agency'' has the meaning given the term in section 796 of title 16.

(3) Federal utility

The term ''Federal utility'' means—

(A) a Federal power marketing agency; or

(B) the Tennessee Valley Authority.

(4) Transmission Organization

The term ''Transmission Organization'' has the meaning given the term in section 796 of title 16.

(5) Transmission system

The term ''transmission system'' means an electric transmission facility owned, leased, or contracted for by the United States and operated by a Federal utility.

(b) Transfer

The appropriate Federal regulatory authority may enter into a contract, agreement, or other arrangement transferring control and use of all or part of the transmission system of a Federal utility to a Transmission Organization.

(c) Contents

The contract, agreement, or arrangement shall include—

(1) performance standards for operation and use of the transmission system that the head of the Federal utility determines are necessary or appropriate, including standards that ensure—

(A) recovery of all of the costs and expenses of the Federal utility related to the transmission facilities that are the subject of the contract, agreement, or other arrangement;

(B) consistency with existing contracts and third-party financing arrangements; and

(C) consistency with the statutory authorities, obligations, and limitations of the Federal utility;

(2) provisions for monitoring and oversight by the Federal utility of the Transmission Organization's terms and conditions of the contract, agreement, or other arrangement, including a provision for the resolution of disputes through arbitration or other means with the Transmission Organization or with other participants, notwithstanding the obligations and limitations of any other law regarding arbitration; and

(3) a provision that allows the Federal utility to withdraw from the Transmission Organization and terminate the contract, agreement, or other arrangement in accordance with its terms.

(d) Commission

Neither this section, actions taken pursuant to this section, nor any other transaction of a

Federal utility participating in a Transmission Organization shall confer on the Commission jurisdiction or authority over—

(1) the electric generation assets, electric capacity, or energy of the Federal utility that the Federal utility is authorized by law to market; or

(2) the power sales activities of the Federal utility.

(e) Existing statutory and other obligations

(1) System operation requirements

No statutory provision requiring or authorizing a Federal utility to transmit electric power or to construct, operate, or maintain the transmission system of the Federal utility prohibits a transfer of control and use of the transmission system pursuant to, and subject to, the requirements of this section.

(2) Other obligations

This subsection does not—

(A) suspend, or exempt any Federal utility from, any provision of Federal law in effect on August 8, 2005, including any requirement or direction relating to the use of the transmission system of the Federal utility, environmental protection, fish and wildlife protection, flood control, navigation, water delivery, or recreation; or

(B) authorize abrogation of any contract or treaty obligation.

(Pub. L. 109–58, title XII, §1232, Aug. 8, 2005, 119 Stat. 956.)

Editorial Notes

CODIFICATION

Section is comprised of section 1232 of Pub. L. 109–58. Subsec. (e)(3) of section 1232 of Pub. L. 109–58 repealed section 824n of Title 16, Conservation.

§ 16432. Study on the benefits of economic dispatch

(a) Study

The Secretary, in coordination and consultation with the States, shall conduct a study on—

(1) the procedures currently used by electric utilities to perform economic dispatch;

(2) identifying possible revisions to those procedures to improve the ability of nonutility generation resources to offer their output for sale for the purpose of inclusion in economic dispatch; and

(3) the potential benefits to residential, commercial, and industrial electricity consumers nationally and in each State if economic dispatch procedures were revised to improve the ability of nonutility generation resources to offer their output for inclusion in economic dispatch.

(b) Definition

The term ''economic dispatch'' when used in this section means the operation of generation facilities to produce energy at the lowest cost to reliably serve consumers, recognizing any operational limits of generation and transmission facilities.

(c) Report to Congress and the States

Not later than 90 days after August 8, 2005, and on a yearly basis following, the Secretary shall submit a report to Congress and the States on the results of the study conducted under subsection (a), including recommendations to Congress and the States for any suggested legislative or regulatory changes.

(Pub. L. 109–58, title XII, §1234, Aug. 8, 2005, 119 Stat. 960.)

PART C—TRANSMISSION RATE REFORM

§ 16441. Funding new interconnection and transmission upgrades

The Commission may approve a participant funding plan that allocates costs related to transmission upgrades or new generator interconnection, without regard to whether an applicant is a member of a Commission-approved Transmission Organization, if the plan results in rates that—

(1) are just and reasonable;

(2) are not unduly discriminatory or preferential; and

(3) are otherwise consistent with sections 824d and 824e of title 16.

(Pub. L. 109–58, title XII, §1242, Aug. 8, 2005, 119 Stat. 962.)

PART D—REPEAL OF PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

§ 16451. Definitions

For purposes of this part:

(1) Affiliate

The term ''affiliate'' of a company means any company, 5 percent or more of the outstanding voting securities of which are owned, controlled, or held with power to vote, directly or indirectly, by such company.

(2) Associate company

The term ''associate company'' of a company means any company in the same holding company system with such company.

(3) Commission

The term ''Commission'' means the Federal Energy Regulatory Commission.

(4) Company

The term ''company'' means a corporation, partnership, association, joint stock company, business trust, or any organized group of persons, whether incorporated or not, or a receiver, trustee, or other liquidating agent of any of the foregoing.

(5) Electric utility company

The term ''electric utility company'' means any company that owns or operates facilities used for the generation, transmission, or distribution of electric energy for sale.

(6) Exempt wholesale generator and foreign utility company

The terms ''exempt wholesale generator'' and ''foreign utility company'' have the same meanings as in sections 79z–5a and 79z–5b of title 15, as those sections existed on the day before the effective date of this part.

(7) Gas utility company

The term ''gas utility company'' means any company that owns or operates facilities used