

equipment designed to use such utility's service.

(2) For purposes of this section and section 3203 of this title, the terms "political advertising" and "promotional advertising" do not include—

(A) advertising which informs natural gas consumers how they can conserve natural gas or can reduce peak demand for natural gas,

(B) advertising required by law or regulation, including advertising required under part 1 of title II of the National Energy Conservation Policy Act [42 U.S.C. 8211 et seq.],

(C) advertising regarding service interruptions, safety measures, or emergency conditions,

(D) advertising concerning employment opportunities with such utility,

(E) advertising which promotes the use of energy efficient appliances, equipment or services, or

(F) any explanation or justification of existing or proposed rate schedules, or notification of hearings thereon.

(Pub. L. 95-617, title III, §304, Nov. 9, 1978, 92 Stat. 3151.)

REFERENCES IN TEXT

The National Energy Conservation Policy Act, referred to in subsec. (b)(2)(B), is Pub. L. 95-619, Nov. 9, 1978, 92 Stat. 3208. Part 1 of title II of the National Energy Conservation Policy Act was classified generally to part A (§8211 et seq.) of subchapter II of chapter 91 of Title 42, The Public Health and Welfare, and was omitted from the Code pursuant to section 8229 of Title 42 which terminated authority under that part June 30, 1989. For complete classification of this Act to the Code, see Short Title note set out under section 8201 of Title 42 and Tables.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3203 of this title.

§ 3205. Federal participation

(a) Intervention

In addition to the authorities vested in the Secretary pursuant to any other provision of law, the Secretary, on his own motion, may intervene as a matter of right in any proceeding before a State regulatory authority which relates to gas utility rates or rate design. Such intervention shall be solely for the purpose of advocating policies or methods which carry out the purposes set forth in section 3201 of this title.

(b) Rights

The Secretary shall have the same rights as any other party to a proceeding before a State regulatory authority which relates to gas utility rates or rate design.

(c) Nonregulated gas utilities

The Secretary, on his own motion, may, to the same extent as provided in subsections (a) through (b) of this section, intervene as a matter of right in any proceeding which relates to rates or rate design of nonregulated gas utilities.

(Pub. L. 95-617, title III, §305, Nov. 9, 1978, 92 Stat. 3152.)

DEFINITIONS

The definition of Secretary in section 2602 of Title 16, Conservation, applies to this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3207 of this title.

§ 3206. Gas utility rate design proposals

(a) Study

(1) The Secretary, in consultation with the Commission and, after affording an opportunity for consultation and comment by representatives of the State regulatory commissions, gas utilities, and gas consumers, shall study and report to Congress on gas utility rate design within 18 months after November 9, 1978. Such study shall address the effect (both separately and in combination) of the following factors upon the items listed in paragraph (2): incremental pricing; marginal cost pricing; end user gas consumption taxes; wellhead natural gas pricing policies; demand-commodity rate design; declining block rates; interruptible service; seasonal rate differentials; and end user rate schedules.

(2) The items referred to in paragraph (1) are as follows:

(A) natural gas pipeline and local distribution company load factors;

(B) rates to each class of user, including residential, commercial, and industrial users;

(C) the change in total costs resulting from gas utility designs (including capital and operating costs) to gas consumers or classes thereof;

(D) demand for, and consumption of, natural gas;

(E) end use profiles of natural gas pipelines and local distribution companies; and

(F) competition with alternative fuels.

(b) Proposals

Based upon the study prepared pursuant to subsection (a) of this section, the Secretary shall develop proposals to improve gas utility rate design and to encourage conservation of natural gas. Such proposals shall include any comments and recommendations of the Commission.

(c) Transmission to Congress

The proposals prepared under subsection (b) of this section, shall be transmitted, together with any legislative recommendations, to each House of Congress not later than 6 months after the date of submission of the study under subsection (a) of this section. Such proposals shall be accompanied by an analyses¹ of—

(1) the projected savings (if any) in consumption of natural gas, and other energy resources,

(2) changes (if any) in the cost of natural gas to consumers, which are likely to result from the implementation nationally of each of such proposals, and

(3) the effects of the proposals on other provisions of this Act on gas utility rate structures.

(d) Public participation

The Secretary shall provide for public participation in the conduct of the study under sub-

¹ So in original. Probably should be "analysis".

section (a) of this section, and the preparation of proposals under subsection (b) of this section. (Pub. L. 95-617, title III, §306, Nov. 9, 1978, 92 Stat. 3152.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(3), is Pub. L. 95-617, Nov. 9, 1978, 92 Stat. 3117, known as the Public Utility Regulatory Policies Act of 1978. For complete classification of this Act to the Code, see Short Title note set out under section 2601 of Title 16, Conservation, and Tables.

DEFINITIONS

The definitions of Secretary and Commission in section 2602 of Title 16, Conservation, apply to this section.

§ 3207. Judicial review and enforcement

(a) Limitation of Federal jurisdiction

(1) Notwithstanding any other provision of law, no court of the United States shall have jurisdiction over any action arising under any provision of this chapter except for—

(A) an action over which a court of the United States has jurisdiction under paragraph (2), or

(B) review in the Supreme Court of the United States in accordance with sections 1257 and 1258 of title 28.

(2) The Secretary may bring an action in any appropriate court of the United States to enforce his right to intervene under section 3205 of this title, and such court shall have jurisdiction to grant appropriate relief.

(b) Enforcement

(1) Any person may bring an action to enforce the requirements of this chapter in the appropriate State court. Such action in a State court shall be pursuant to applicable State procedures.

(2) Nothing in this chapter shall authorize the Secretary to appeal or otherwise seek judicial review of the decisions of a State regulatory authority or nonregulated gas utility or to become a party to any action to obtain such review or appeal. The Secretary may participate as an amicus curiae in any judicial review of an action arising under the provisions of this chapter.

(Pub. L. 95-617, title III, §307, Nov. 9, 1978, 92 Stat. 3153.)

DEFINITIONS

The definitions of Secretary and State in section 2602 of Title 16, Conservation, apply to this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3203 of this title.

§ 3208. Relationship to other applicable law

Nothing in this chapter prohibits any State regulatory authority or nonregulated gas utility from adopting, pursuant to State law, any standard or rule affecting gas utilities which is different from any standard established by this chapter.

(Pub. L. 95-617, title III, §308, Nov. 9, 1978, 92 Stat. 3153.)

DEFINITIONS

The definition of State in section 2602 of Title 16, Conservation, applies to this section.

§ 3209. Reports respecting standards

(a) State authorities and nonregulated utilities

Not later than 1 year after November 9, 1978, and annually thereafter for 10 years, each State regulatory authority (with respect to each gas utility for which it has ratemaking authority), and each nonregulated gas utility, shall report to the Secretary, in such manner as the Secretary shall prescribe, respecting its consideration of the standards established by this chapter. Such report shall include a summary of the determinations made and actions taken with respect to each of such standards on a utility-by-utility basis.

(b) Secretary

Not later than 18 months after November 9, 1978, and annually thereafter for 10 years, the Secretary shall submit a report to the President and the Congress containing—

(1) a summary of the reports submitted under subsection (a) of this section,

(2) his analysis of such reports, and

(3) his actions under this chapter, and his recommendations for such further Federal actions, including any legislation, regarding retail gas utility rates (and other practices) as may be necessary to carry out the purposes of this chapter.

(Pub. L. 95-617, title III, §309, Nov. 9, 1978, 92 Stat. 3153.)

DEFINITIONS

The definition of Secretary in section 2602 of Title 16, Conservation, applies to this section.

§ 3210. Prior and pending proceedings

For purposes of this chapter, proceedings commenced by any State regulatory authority (with respect to gas utilities for which it has rate-making authority) and any nonregulated gas utility before November 9, 1978, and actions taken before such date in such proceedings shall be treated as complying with the requirements of this chapter if such proceedings and actions substantially conform to such requirements. For purposes of this chapter, any such proceeding or action commenced before November 9, 1978, but not completed before such date shall comply with the requirements of this chapter, to the maximum extent practicable, with respect to so much of such proceeding or action as takes place after such date.

(Pub. L. 95-617, title III, §310, Nov. 9, 1978, 92 Stat. 3154.)

§ 3211. Relationship to other authority

Nothing in this chapter shall be construed to limit or affect any authority of the Secretary or the Commission under any other provision of law.

(Pub. L. 95-617, title III, §311, Nov. 9, 1978, 92 Stat. 3154.)

DEFINITIONS

The definitions of Secretary and Commission in section 2602 of Title 16, Conservation, apply to this section.