

**AMENDMENTS TO THE PUBLIC UTILITY REGULATORY POLICIES
ACT OF 1978**

Section 115 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2625) is amended to read as follows:

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—
 - (A) additional capacity is added to meet peak demand relative to base demand; and
 - (B) additional kilowatt-hours of electric energy are delivered to electric consumers.

(b) Time-of-day rates

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for time-of-day rates established by section 2621 (d)(3) **and the standard for time-based metering and communications established by section 2621 (d)(14)** of this title, a time-of-day rate charged by an electric utility for providing electric service to each class of electric consumers shall be determined to be cost-effective with respect to each such class if the long-run benefits of such rate to the electric utility and its electric consumers in the class concerned are likely to exceed the metering **and communications** costs and other costs associated with the use of such rates.

(c) Load management techniques

In undertaking the consideration and making the determination required under section 2621 of this title with respect to the standard for load management techniques established by section 2621 (d)(6) of this title, a load management technique shall be determined, by the State regulatory authority or nonregulated electric utility, to be cost-effective if—

- (1) such technique is likely to reduce maximum kilowatt demand on the electric utility, and

(2) the long-run cost-savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation of such technique.

(d) Master metering

Separate metering shall be determined appropriate for any new building for purposes of section 2623 (b)(1) of this title if—

- (1) there is more than one unit in such building,
- (2) the occupant of each such unit has control over a portion of the electric energy used in such unit, and
- (3) with respect to such portion of electric energy used in such unit, the long-run benefits to the electric consumers in such building exceed the costs of purchasing and installing separate meters in such building.

(e) Automatic adjustment clauses

(1) An automatic adjustment clause of an electric utility meets the requirements of this subsection if—

(A) such clause is determined, not less often than every four years, by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or by the electric utility (in the case of a nonregulated electric utility), after an evidentiary hearing, to provide incentives for efficient use of resources (including incentives for economical purchase and use of fuel and electric energy) by such electric utility, and

(B) such clause is reviewed not less often than every two years, in the manner described in paragraph (2), by the State regulatory authority having ratemaking authority with respect to such utility (or by the electric utility in the case of a nonregulated electric utility), to insure the maximum economies in those operations and purchases which affect the rates to which such clause applies.

(2) In making a review under subparagraph (B) of paragraph (1) with respect to an electric utility, the reviewing authority shall examine and, if appropriate, cause to be audited the practices of such electric utility relating to costs subject to an automatic adjustment clause, and shall require such reports as may be necessary to carry out such review (including a disclosure of any ownership or corporate relationship between such electric utility and the seller to such utility of fuel, electric energy, or other items).

(3) As used in this subsection and section 2623 (b) of this title, the term “automatic adjustment clause” means a provision of a rate schedule which provides for increases or decreases (or both), without prior hearing, in rates reflecting increases or decreases (or both) in costs incurred by an electric utility. Such term does not include an interim rate which takes effect subject to a later determination of the appropriate amount of the rate.

(f) Information to consumers

(1) For purposes of the standard for information to consumers established by section 2623 (b)(3) of this title, each electric utility shall transmit to each of its electric consumers a clear and concise explanation of the existing rate schedule and any rate schedule applied for (or proposed by a nonregulated electric

utility) applicable to such consumer. Such statement shall be transmitted to each such consumer—

(A) not later than sixty days after the date of commencement of service to such consumer or ninety days after the standard established by section 2623 (b)(3) of this title is adopted with respect to such electric utility, whichever last occurs, and

(B) not later than thirty days (sixty days in the case of an electric utility which uses a bimonthly billing system) after such utility's application for any change in a rate schedule applicable to such consumer (or proposal of such a change in the case of a nonregulated utility).

(2) For purposes of the standard for information to consumers established by section 2623 (b)(3) of this title, each electric utility shall transmit to each of its electric consumers not less frequently than once each year—

(A) a clear and concise summary of the existing rate schedules applicable to each of the major classes of its electric consumers for which there is a separate rate, and

(B) an identification of any classes whose rates are not summarized.

Such summary may be transmitted together with such consumer's billing or in such other manner as the State regulatory authority or nonregulated electric utility deems appropriate.

(3) For purposes of the standard for information to consumers established by section 2623 (b)(3) of this title, each electric utility, on request of an electric consumer of such utility, shall transmit to such consumer a clear and concise statement of the actual consumption (or degree-day adjusted consumption) of electric energy by such consumer for each billing period during the prior year (unless such consumption data is not reasonably ascertainable by the utility).

(g) Procedures for termination of electric service

The procedures for termination of service referred to in section 2623 (b)(4) of this title are procedures prescribed by the State regulatory authority (with respect to electric utilities for which it has ratemaking authority) or by the nonregulated electric utility which provide that—

(1) no electric service to an electric consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and

(2) during any period when termination of service to an electric consumer would be especially dangerous to health, as determined by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility, and such consumer establishes that—

(A) he is unable to pay for such service in accordance with the requirements of the utility's billing, or

(B) he is able to pay for such service but only in installments,

such service may not be terminated.

Such procedures shall take into account the need to include reasonable provisions for elderly and handicapped consumers.

(h) Advertising

- (1) For purposes of this section and section 2623 (b)(5) of this title—
- (A) The term “advertising” means the commercial use, by an electric utility, of any media, including newspaper, printed matter, radio, and television, in order to transmit a message to a substantial number of members of the public or to such utility’s electric consumers.
 - (B) The term “political advertising” means any advertising for the purpose of influencing public opinion with respect to legislative, administrative, or electoral matters, or with respect to any controversial issue of public importance.
 - (C) The term “promotional advertising” means any advertising for the purpose of encouraging any person to select or use the service or additional service of an electric utility or the selection or installation of any appliance or equipment designed to use such utility’s service.
- (2) For purposes of this subsection and section 2623 (b)(5) of this title, the terms “political advertising” and “promotional advertising” do not include—
- (A) advertising which informs electric consumers how they can conserve energy or can reduce peak demand for electric energy,
 - (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 notifications of hearings thereon.

(i) TIME-BASED METERING AND COMMUNICATIONS.—In making a determination with respect to the standard established by section 111(d)(14), the investigation requirement of section 111(d)(14)(F) shall be as follows: Each State regulatory authority shall conduct an investigation and issue a decision whether or not it is appropriate for electric utilities to provide and install time-based meters and communications devices for each of their customers which enable such customers to participate in time-based pricing rate schedules and other demand response programs.