

LEGISLATIVE BILL 349

Approved by the Governor May 18, 1971

Introduced by C. W. Holmquist, 16th District

AN ACT to amend section 70-1001, Reissue Revised Statutes of Nebraska, 1943, and section 70-626.01, Revised Statutes Supplement, 1969, relating to public power districts; to provide for agreements limiting competition to sell electric energy as prescribed; to provide for approval of such agreements; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. All suppliers of electricity, including public power districts, public power and irrigation districts, municipalities, electric membership associations, and cooperatives, shall have authority to enter into written agreements with each other limiting the areas in which or the customers to which a party to the agreement shall provide or sell electric energy at wholesale. Wholesale electric energy is hereby defined as electric energy which is sold to another agency for resale to the ultimate user, hereafter referred to as the retail customer. Before such agreements shall become effective, they shall be submitted to and approved by the Nebraska Power Review Board created by section 70-1003. It is declared to be the purpose of this section to promote and encourage the making of such agreements. Such agreements may be amended by the parties thereto at any time, and such amendments shall require the approval of the Nebraska Power Review Board. When requested to approve such an agreement or amendment thereto, the Nebraska Power Review Board shall consider whether or not the proposed agreement or amendment can be reasonably expected to provide a reliable wholesale power supply at a reasonable cost for the area covered by the agreement. It may make such investigation as it determines is necessary and hold a hearing if it determines one to be desirable. At the conclusion of its investigation, the Nebraska Power Review Board shall approve the agreement or amendment unless it determines that it cannot be reasonably expected to provide a reliable wholesale power supply at a reasonable cost for the area covered. Such agreements when approved by the Nebraska Power Review Board shall not be binding upon other suppliers that are not parties to the agreement and the Nebraska Power Review Board shall have no authority to impose

conditions that will be binding or applicable to other suppliers that are not parties to such agreements. Such agreements shall not be considered as establishing service areas within the meaning of Chapter 70, article 10.

Sec. 2. No supplier shall offer, provide or sell electric energy at wholesale in areas or to customers in violation of any agreement entered into and approved by the Nebraska Power Review Board pursuant to section 1 of this act.

Sec. 3. That section 70-626.01, Revised Statutes Supplement, 1969, be amended to read as follows:

70-626.01. A public power district or public power and irrigation district which is engaged in the generation and transmission of electrical energy, both of which are hereinafter referred to in this act by the term generating power agency, shall be required to sell electrical energy at wholesale under the terms and conditions of a fair and reasonable contract directly to any municipality, other public power or public power and irrigation district, political subdivision in the state, or any nonprofit electric cooperative corporation organized under Chapter 70, article 7, all of which are hereinafter referred to in this act by the term distribution power agency, when such distribution power agency makes application for the purchase of electrical energy, if such sale is not in violation of an agreement of the generating power agency approved by the Nebraska Power Review Board and such generating power agency has the requested amount of electrical energy available for sale, and the distribution power agency agrees to make or pay for the necessary physical connection with the electrical facilities of such generating power agency.

Sec. 4. That section 70-1001, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

70-1001. In order to provide the citizens of the state with adequate electric service at as low overall cost as possible, consistent with sound business practices, it is the policy of this state to avoid and eliminate conflict and competition between public power districts, public power and irrigation districts, municipalities, electric membership associations, and cooperatives in furnishing electric energy to retail and wholesale customers, to avoid and eliminate the duplication of facilities and resources which result

therefrom, and to facilitate the settlement of rate disputes between suppliers of electricity.

Sec. 5. That original section 70-1001, Reissue Revised Statutes of Nebraska, 1943, and section 70-626.01, Revised Statutes Supplement, 1969, are repealed.