

LEGISLATIVE BILL 805

Approved by the Governor March 27, 1984

Introduced by Warner, 25; Schmit, 23

AN ACT relating to public power; to provide a statement of policy; to authorize certain agreements; to provide powers and duties for the Nebraska Power Review Board; to provide an exemption from certain laws as prescribed; and to provide intent.

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

Section 1. It is the public policy of this state to provide its citizens with adequate electric service at as low an overall cost as possible, consistent with sound business practices, and in furtherance of such policy it is necessary to avoid and eliminate conflict and competition among and between suppliers of electric power and energy and to avoid duplication of facilities and resources which result from such conflict and competition.

Sec. 2. In furtherance of the policy of this state as set forth in section 1 of this act, suppliers of electric power and energy, including public power districts, nonprofit corporations, public power and irrigation districts, individual municipalities, registered groups of municipalities, public corporations, electric membership associations, cooperatives, and any other entities, are authorized to enter into written agreements between or among themselves which (1) prohibit, limit, or set conditions on the right of any party to the agreement to sell power and energy at wholesale to any entity which is then or thereafter served by another party to the agreement or to any entity listed in the agreement as a customer of another party to the agreement or (2) require any party to the agreement which sells power and energy at wholesale to any entity which is then or thereafter served by another party to the agreement or to any entity listed in the agreement as a customer of another party to the agreement to purchase power and energy from another party to the agreement.

Sec. 3. Before any agreement made pursuant to section 2 of this act or amendment to such agreement shall become effective, it shall be submitted to and approved by the Nebraska Power Review Board. When requested to approve such agreement or amendment, the Nebraska Power Review Board shall determine whether such agreement or amendment is in furtherance of the public policy of this state as set forth in section 1 of this act. The board may make such investigation as it determines is necessary, give ten

days' notice by mail to such alternate power suppliers as it deems affected by the agreement or amendment, 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 the agreement or amendment cannot be reasonably expected to fulfill the purposes of this act. The purpose of this section is to promote and encourage the making of agreements pursuant to section 2 of this act.

Sec. 4. In the event of any disagreement arising among the parties to an agreement authorized by this act which cannot be settled by negotiations, the dispute may be submitted to the Nebraska Power Review Board. Upon the submission of any such disagreement to the board, the board shall set a time and place for hearing thereon and give notice as provided in section 70-1013. Following such hearing, the board shall make its recommendations for the settlement of such disagreement, which recommendations shall be advisory only.

Sec. 5. In the exercise of the powers granted in this act and in Chapter 70, article 10, to execute agreements authorized by this act or other agreements authorized by Chapter 70, article 10, a supplier of electric power and energy shall be exempt from any law, rule, or regulation of this state regulating competition. It is intended that a supplier of electric power and energy carrying out the activities described by an agreement authorized by this act or any other agreement authorized by Chapter 70, article 10, receive full exemption and immunity from state and federal antitrust laws in light of the public purposes and regulatory provisions of this act.