

Power marketing functions of Bureau of Reclamation, including construction, operation, and maintenance of transmission lines and attendant facilities, transferred to Secretary of Energy by section 7152(a)(1)(E), (3) of Title 42, and are to be exercised by Secretary through a separate Administration within Department of Energy.

§ 838g. Schedules of rates and charges for sale of Federal power and transmission of non-Federal power; confirmation and approval; criteria for modification and establishment

Schedules of rates and charges for the sale, including dispositions to Federal agencies, of all electric power made available to the Administrator pursuant to section 838f of this title or otherwise acquired, and for the transmission of non-Federal electric power over the Federal transmission system, shall become effective upon confirmation and approval thereof by the Secretary of Energy. Such rate schedules may be modified from time to time by the Secretary of Energy, acting by and through the Administrator, subject to confirmation and approval by the Secretary of Energy, and shall be fixed and established (1) with a view to encouraging the widest possible diversified use of electric power at the lowest possible rates to consumers consistent with sound business principles, (2) having regard to the recovery (upon the basis of the application of such rate schedules to the capacity of the electric facilities of the projects) of the cost of producing and transmitting such electric power, including the amortization of the capital investment allocated to power over a reasonable period of years and payments provided for in section 838i(b)(9) of this title, and (3) at levels to produce such additional revenues as may be required, in the aggregate with all other revenues of the Administrator, to pay when due the principal of, premiums, discounts, and expenses in connection with the issuance of and interest on all bonds issued and outstanding pursuant to this chapter, and amounts required to establish and maintain reserve and other funds and accounts established in connection therewith.

(Pub. L. 93-454, §9, Oct. 18, 1974, 88 Stat. 1377; Pub. L. 95-91, title III, §§301(b), 302(a)(1)(D), Aug. 4, 1977, 91 Stat. 578.)

TRANSFER OF FUNCTIONS

“Secretary of Energy” substituted in text for “Secretary of the Interior” and “Federal Power Commission” pursuant to Pub. L. 95-91, §§301(b), 302(a)(1)(D), which are classified to sections 7151(b) and 7152(a)(1)(D) of Title 42, The Public Health and Welfare.

Federal Power Commission terminated and its functions, personnel, property, funds, etc., transferred to Secretary of Energy (except for certain functions transferred to Federal Energy Regulatory Commission) by sections 7151(b), 7171(a), 7172(a), 7291, and 7293 of Title 42.

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

§ 838h. Uniform schedules of rates and charges for sale of Federal power and transmission of non-Federal power; allocation of cost recovery

The said schedules of rates and charges for transmission, the said schedules of rates and charges for the sale of electric power, or both such schedules, may provide, among other things, for uniform rates or rates uniform throughout prescribed transmission areas. The recovery of the cost of the Federal transmission system shall be equitably allocated between Federal and non-Federal power utilizing such system.

(Pub. L. 93-454, §10, Oct. 18, 1974, 88 Stat. 1378.)

§ 838i. Bonneville Power Administration fund

(a) Establishment; composition; availability of transferred funds for expenditures

There is hereby established in the Treasury of the United States a Bonneville Power Administration fund (hereinafter referred to as the “fund”). The fund shall consist of (1) all receipts, collections, and recoveries of the Administrator in cash from all sources, including trust funds, (2) all proceeds derived from the sale of bonds by the Administrator, (3) any appropriations made by the Congress for the fund, and (4) the following funds which are hereby transferred to the Administrator: (i) all moneys in the special account in the Treasury established pursuant to Executive Order Numbered 8526 dated August 26, 1940, (ii) the unexpended balances in the continuing fund established by the provisions of section 832j of this title, and (iii) the unexpended balances of funds appropriated or otherwise made available for the Bonneville Power Administration. All funds transferred hereunder shall be available for expenditure by the Secretary of Energy, acting by and through the Administrator, as authorized in this chapter and any other Act relating to the Federal Columbia River transmission system, subject to such limitations as may be prescribed by any applicable appropriation act effective during such period as may elapse between their transfer and the approval by the Congress of the first subsequent annual budget program of the Administrator.

(b) Authorized purposes of expenditures

The Administrator may make expenditures from the fund, which shall have been included in his annual budget submitted to Congress, without further appropriation and without fiscal year limitation, but within such specific directives or limitations as may be included in appropriation acts, for any purpose necessary or appropriate to carry out the duties imposed upon the Administrator pursuant to law, including but not limited to—

(1) construction, acquisition, and replacement of (i) the transmission system, including facilities and structures appurtenant thereto, and (ii) additions, improvements, and betterments thereto (hereinafter in this chapter referred to as “transmission system”);

(2) operation, maintenance, repair, and relocation, to the extent such relocation is not provided for under subsection (1) above, of the transmission system;

(3) electrical research, development, experimentation, test, and investigation related to construction, operation, and maintenance of transmission systems and facilities;

(4) marketing of electric power;

(5) transmission over facilities of others and rental, lease, or lease-purchase of facilities;

(6) purchase of electric power (including the entitlement of electric plant capability) (i) on a short-term basis to meet temporary deficiencies in electric power which the Administrator is obligated by contract to supply, or¹ (ii) if such purchase has been heretofore authorized or is made with funds expressly appropriated for such purchase by the Congress, (iii) if to be paid for with funds provided by other entities for such purpose under a trust or agency arrangement, or (iv) on a short term basis to meet the Administrator's obligations under section 4(h) of the Pacific Northwest Electric Power Planning and Conservation Act [16 U.S.C. 839b(h)];

(7) defraying emergency expenses or insuring continuous operation;

(8) paying the interest on, premiums, discounts, and expenses, if any, in connection with the issuance of, and principal of all bonds issued under section 838k(a) of this title, including provision for and maintenance of reserve and other funds established in connection therewith;

(9) making such payments to the credit of the reclamation fund or other funds as are required by or pursuant to law to be made into such funds in connection with reclamation projects in the Pacific Northwest: *Provided*, That this clause shall not be construed as permitting the use of revenues for repayment of costs allocated to irrigation at any project except as otherwise expressly authorized by law;

(10) making payments to the credit of miscellaneous receipts of the Treasury for all unpaid costs required by or pursuant to law to be charged to and returned to the general fund of the Treasury for the repayment of the Federal investment in the Federal Columbia River Power System from electric power marketed by the Administrator;

(11) acquiring such goods and services, and paying dues and membership fees in such professional, utility, industry, and other societies, associations, and institutes, together with expenses related to such memberships, including but not limited to the acquisitions and payments set forth in the general provisions of the annual appropriations Act for the Department of Energy, as the Administrator determines to be necessary or appropriate in carrying out the purposes of this chapter; and

(12) making such payments, as shall be required to carry out the purposes and provisions of the Pacific Northwest Electric Power Planning and Conservation Act [16 U.S.C. 839 et seq.].

(c) Restriction on use of expenditures to authorized purposes; expenditures of moneys received in trust; applicability of provisions relating to control of Government corporations

Moneys heretofore or hereafter appropriated shall be used only for the purposes for which ap-

propriated, and moneys received by the Administrator in trust shall be used only for carrying out such trust. The provisions of chapter 91 of title 31 shall be applicable to the Administrator in the same manner as they are applied to the wholly owned Government corporations named in section 9101 of title 31, but nothing in section 9105(d)² of title 31 shall be construed as affecting the powers granted in subsection (b)(11) of this section and in sections 832a(f), 832i(b), and 832k(a) of this title.

(d) Audit of financial transactions by Comptroller General; report to Congress

Notwithstanding the provisions of sections 9105 and 9106 of title 31, the financial transactions of the Administrator shall be audited by the Comptroller General at such times and to such extent as the Comptroller General deems necessary, and reports of the results of each such audit shall be made to the Congress within 6½ months following the end of the fiscal year covered by the audit.

(Pub. L. 93-454, §11, Oct. 18, 1974, 88 Stat. 1378; Pub. L. 95-91, title III, §302(a)(1)(D), Aug. 4, 1977, 91 Stat. 578; Pub. L. 96-501, §8(a), (b), Dec. 5, 1980, 94 Stat. 2728.)

REFERENCES IN TEXT

Executive Order Numbered 8526 dated August 26, 1940, referred to in subsec. (a), is not classified to the Code.

The Pacific Northwest Electric Power Planning and Conservation Act, referred to in subsec. (b)(12), is Pub. L. 96-501, Dec. 5, 1980, 94 Stat. 2697, which is classified principally to chapter 12H (§839 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 839 of this title and Tables.

Section 9105 of title 31, referred to in subsec. (c), was amended generally by Pub. L. 101-576, title III, §305, Nov. 15, 1990, 104 Stat. 2853, and, as so amended, does not contain a subsec. (d).

CODIFICATION

In subsec. (c), "chapter 91 of title 31", "section 9101 of title 31", and "section 9105(d) of title 31" substituted for "the Government Corporation Control Act (31 U.S.C. 841 et seq.)", "section 101 of such Act (31 U.S.C. 846)", and "the proviso in section 850 of title 31, United States Code", respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

In subsec. (d), "sections 9105 and 9106 of title 31" substituted for "sections 105 and 106 of the Government Corporation Control Act [31 U.S.C. 850, 851]" on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31.

AMENDMENTS

1980—Subsec. (b)(6)(iv). Pub. L. 96-501, §8(a), added cl. (iv).

Subsec. (b)(12). Pub. L. 96-501, §8(b), added par. (12).

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-501 effective Dec. 5, 1980, see section 11 of Pub. L. 96-501, set out as an Effective Date note under section 839 of this title.

TRANSFER OF FUNCTIONS

"Secretary of Energy" substituted for "Secretary of the Interior" in subsec. (a) and "Department of Energy" substituted for "Department of Interior" in subsec. (b)(11) pursuant to Pub. L. 95-91, §302(a)(1)(D),

¹ So in original. The word "or" probably should not appear.

² See References in Text note below.

which is classified to section 7152(a)(1)(D) of Title 42, The Public Health and Welfare.

Functions of Secretary of the Interior with respect to Bonneville Power Administration transferred to Secretary of Energy by section 7152(a)(1)(D), (2) of Title 42, with Bonneville Power Administration to be preserved as a distinct organizational entity within Department of Energy and headed by an Administrator.

AUTHORITY TO INCUR OBLIGATIONS IN EXCESS OF
BORROWING AUTHORITY AND CASH IN FUND

Pub. L. 100-371, title III, July 19, 1988, 102 Stat. 869, provided that: "Without fiscal year limitation, the Bonneville Power Administration continues to be authorized to incur obligations for authorized purposes and may do so in excess of borrowing authority and cash in the Bonneville Power Administration Fund."

§ 838j. Investment of excess moneys; deposit of moneys

(a) If the Administrator determines that moneys in the fund are in excess of current needs he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in direct, general obligations of, or obligations guaranteed as to both principal and interest by, the United States of America.

(b) With the approval of the Secretary of the Treasury, the Administrator may deposit moneys of the fund in any Federal Reserve bank or other depository for funds of the United States of America, or in such other banks and financial institutions and under such terms and conditions as the Administrator and the Secretary of the Treasury may mutually agree.

(Pub. L. 93-454, §12, Oct. 18, 1974, 88 Stat. 1380.)

§ 838k. Bonneville Power Administration bonds

(a) Issuance and sale; terms and conditions; interest rate; limitation on aggregate principal amount outstanding

The Administrator is authorized to issue and sell to the Secretary of the Treasury from time to time in the name and for and on behalf of the Bonneville Power Administration bonds, notes, and other evidences of indebtedness (in this chapter collectively referred to as "bonds") to assist in financing the construction, acquisition, and replacement of the transmission system, to implement the Administrator's authority pursuant to the Pacific Northwest Electric Power Planning and Conservation Act [16 U.S.C. 839 et seq.] (including his authority to provide financial assistance for conservation measures, renewable resources, and fish and wildlife, but not including the authority to acquire under section 6 of that Act [16 U.S.C. 839d] electric power from a generating facility having a planned capability greater than 50 average megawatts), and to issue and sell bonds to refund such bonds. Such bonds shall be in such forms and denominations, bear such maturities, and be subject to such terms and conditions as may be prescribed by the Secretary of the Treasury taking into account terms and conditions prevailing in the market for similar bonds, the useful life of the facilities for which the bonds are issued, and financing practices of the utility industry. Refunding provisions may be prescribed by the Administrator. Such bonds shall bear interest at a rate determined by the Secretary of the Treas-

ury taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities, plus an amount in the judgment of the Secretary of the Treasury to provide for a rate comparable to the rates prevailing in the market for similar bonds issued by Government corporations. Beginning in fiscal year 1982, if the Administrator fails to repay by the end of any fiscal year all of the amounts projected immediately prior to such year to be repaid to the Treasury by the end of such year under the repayment criteria of the Secretary of Energy and if such failure is due to reasons other than (A) a decrease in power sale revenues due to fluctuating streamflows or (B) other reasons beyond the control of the Administrator, the Secretary of the Treasury may increase the interest rate applicable to the outstanding bonds issued by the Administrator during such fiscal year. Such increase shall be effective commencing with the fiscal year immediately following the fiscal year during which such failure occurred and shall not exceed 1 per centum for each such fiscal year during which such repayments are not in accord with such criteria. The Secretary of the Treasury shall take into account amounts that the Administrator has repaid in advance of any repayment criteria in determining whether to increase such rate. Before such rate is increased, the Secretary of the Treasury, in consultation with the Administrator and the Federal Energy Regulatory Commission, must be satisfied that the Administrator will have the ability to pay such increased rate, taking into account the Administrator's obligations. Such increase shall terminate with the fiscal year in which repayments (including repayments of the increased rate) are in accordance with the repayment criteria of the Secretary of Energy. The aggregate principal amount of any such bonds outstanding at any one time shall not exceed \$1,250,000,000 prior to October 1, 1981. Such aggregate principal limitation shall be increased by an additional \$1,250,000,000 after October 1, 1981, as provided in advance in annual appropriation Acts, and such increased amount shall be reserved for the purpose of providing funds for conservation and renewable resource loans and grants in a special revolving account created therefor in the Fund. The funds from such revolving account shall not be deemed State or local funds.

(b) Payment of principal, premiums, and interest from net proceeds; "net proceeds" defined

The principal of, premiums, if any, and interest on such bonds shall be payable solely from the Administrator's net proceeds as hereinafter defined. "Net proceeds" shall mean for the purposes of this section the remainder of the Administrator's gross receipts from all sources after first deducting trust funds and the costs listed in section 838i(b)(2) through (b)(7), (b)(11), and (b)(12) of this title, and shall include reserve or other funds created from such receipts.

(c) Purchase and sale by Secretary of the Treasury; public debt transactions

The Secretary of the Treasury shall purchase forthwith any bonds issued by the Administrator under this chapter and for that purpose is authorized to use as a public debt transaction