

105TH CONGRESS
1ST SESSION

H. R. 718

To privatize certain Federal power generation and transmission assets, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 1997

Mr. FOLEY (for himself, Mr. FRANKS of New Jersey, Mr. HOEKSTRA, Mr. KLUG, Mr. MEEHAN, Mr. ROHRABACHER, Mr. SCARBOROUGH, and Mr. SOLOMON) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To privatize certain Federal power generation and
transmission assets, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Power Asset
5 Privatization Act of 1997”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that:

1 (1) the Federal Power Marketing Administra-
2 tions, over the years, have served to help bring elec-
3 tricity to many areas in the Nation;

4 (2) they have done so with the investment of
5 the American taxpayer;

6 (3) the necessity of federally owned power gen-
7 eration and transmission facilities has passed and
8 halting this practice is in the best national interest
9 of the United States;

10 (4) in fairness to the longtime consumers of
11 Federal Power Marketing Administrations, any proc-
12 ess of sale should be open to them;

13 (5) the taxpayers, through investing in the con-
14 struction and operation, have established equity in
15 the facilities; and

16 (6) this equity entitles the American taxpayer
17 to expect the highest possible return in the sale
18 process.

19 **SEC. 3. SALE OF ASSETS.**

20 (a) SALE OF ASSETS.—The Secretary of Energy
21 (hereinafter referred to as “the Secretary”) is authorized
22 and directed to take such steps as necessary to sell all
23 electric power generation facilities and transmission facili-
24 ties, that are currently owned and operated by Federal

1 departments and agencies under the supervision of, or co-
2 ordination with, the Federal Power Marketing Administra-
3 tions. No foreign person or corporation may purchase any
4 such facilities; such facilities may be sold only to a United
5 States citizen or to a corporation or partnership organized
6 under the laws of a State. After such sales are completed
7 the Secretary shall terminate the operations of the Federal
8 Power Marketing Administrations. The heads of other af-
9 fected Federal departments and agencies shall assist the
10 Secretary of Energy in implementing the sales authorized
11 by this section.

12 (b) PRICE; STRUCTURE OF SALE.—

13 (1) PRICE.—The Secretary shall obtain the
14 highest possible price for such facilities. In determin-
15 ing the highest possible price, the value of future tax
16 revenues shall be included.

17 (2) RETENTION OF FINANCIAL ADVISOR.—In
18 order to conduct the sales authorized by this section
19 in such manner as will produce the highest possible
20 price for the facilities to be sold consistent with this
21 Act, within 30 days of enactment of this section, the
22 Secretary shall, through a competitive bidding proc-
23 ess, retain an experienced private sector firm to
24 serve as financial advisor to the Secretary with re-
25 spect to such sales.

1 (3) FINANCIAL ADVISOR'S REPORT.—Within 90
2 days of being retained by the Secretary, the financial
3 advisor shall provide to the Secretary a report con-
4 taining—

5 (A) a description of those assets described
6 in subsection (a) which, in the opinion of the fi-
7 nancial advisor, can be successfully transferred
8 to private sector ownership or operation;

9 (B) the value of each such asset, calculated
10 on the basis of the valuation method or meth-
11 ods which the financial advisor deems most ap-
12 propriate to a particular asset;

13 (C) the appropriate alternative trans-
14 actional methods for transferring each such
15 asset to private sector ownership or operation;

16 (D) the amount of proceeds which the fi-
17 nancial advisor estimates would be paid to the
18 United States Government as a result of such
19 transaction, including the present value of fu-
20 ture revenue from taxes and any other future
21 payments to be made to the United States Gov-
22 ernment; and

23 (E) an estimate of the average market rate
24 for wholesale electric power sales within each

1 region served by a Federal Power Marketing
2 Administration.

3 (c) TIME OF SALE.—Sales of facilities under this sec-
4 tion shall be conducted in accordance with the time of sale
5 schedule set forth in section 4. At least one year before
6 the date of any sale specified in such schedule, the Sec-
7 retary, in consultation with the Secretary of the Army and
8 the Secretary of the Interior, and based on the rec-
9 ommendations of the financial advisor, shall select the fa-
10 cilities or groups of facilities to be sold and establish the
11 terms and conditions of the sale.

12 (d) FORMER EMPLOYEES OF PMAS.—It is the sense
13 of the Congress that the purchaser of any such facilities
14 should offer to employ, where possible, former employees
15 of the Federal Power Marketing Administrations in con-
16 nection with the operation of the facilities following their
17 purchase.

18 (e) PROCEEDS.—The Secretary of Energy shall de-
19 posit sale proceeds in the Treasury of the United States
20 to the credit of miscellaneous receipts.

21 (f) PREPARATION.—The Secretary of Energy is au-
22 thorized to use funds appropriated to the Department of
23 Energy for the Federal Power Marketing Administrations
24 and funds otherwise appropriated to other Federal agen-
25 cies for power generation and related activities in order

1 to prepare these assets for sale and conveyance. Such
2 preparation shall provide sufficient title to ensure the ben-
3 efiticial use, enjoyment, and occupancy to the purchasers
4 of the assets to be sold and shall include identification of
5 all associated laws and regulations to be amended for the
6 purpose of these sales. The Secretary of Energy shall un-
7 dertake a study of the effect of sales of facilities under
8 this Act on existing contracts for the sale of electric power
9 generated at such facilities.

10 (g) REPORTING OF SALES.—Not later than one year
11 after the sale of the assets of each Federal Power Market-
12 ing Administration in accordance with this Act, the Sec-
13 retary of Energy shall—

14 (1) complete the business of, and close out,
15 such administration; and

16 (2) prepare and submit to Congress a report
17 documenting the sales.

18 (h) TREATMENT OF SALES FOR PURPOSES OF CER-
19 TAIN LAWS.—The sales of assets under this Act shall not
20 be considered a disposal of Federal surplus property under
21 the following provisions of law:

22 (1) Section 203 of the Federal Property and
23 Administrative Services Act of 1949 (40 U.S.C.
24 484).

1 (2) Section 13 of the Surplus Property Act of
2 1944 (50 U.S.C. App. 1622).

3 **SEC. 4. TIME OF SALES.**

4 (a) SCHEDULE.—The Secretary of Energy shall com-
5 plete the sale of the electric power generation and trans-
6 mission assets referred to in section 3 in accordance with
7 the following schedule:

Power Administration	Sale Completion Date
Southeastern	Before September 30, 1999
Southwestern	Before September 30, 2000
Western Area	Before September 30, 2001
Bonneville	Before September 30, 2002

8 (b) UNEXPENDED BALANCES.—Following the sale of
9 the assets of each of the Federal Power Marketing Admin-
10 istrations and their associated power generation facilities,
11 the Secretary of Energy shall return the unexpended bal-
12 ances of funds appropriated for that administration to the
13 Treasury of the United States.

14 **SEC. 5. RATE STABILIZATION FOR AFFECTED CONSUMERS.**

15 So that the affected consumers of each Federal
16 Power Marketing Administration are not impacted by se-
17 vere rate increases, each purchaser of electric power gen-
18 eration facilities providing electric power to customers
19 within any region shall be required, as part of the agree-
20 ment to purchase such facilities, to insure that the price
21 at which electric power is sold to such consumers does not
22 increase above the baseline price at a rate greater than

1 10 percent annually. For purposes of this section, the term
2 “baseline price” means the price for the sale of electric
3 power to a consumer that is in effect on the date of the
4 sale of the facility. The preceding sentence shall cease to
5 apply when the price at which electric power is sold to
6 a consumer is at least equal to the average market rate
7 for wholesale electric power sales within the region con-
8 cerned, as determined by the Financial Advisor.

9 **SEC. 6. LICENSING OF PROJECTS TO PRESERVE CURRENT**
10 **OPERATING CONDITIONS.**

11 (a) ORIGINAL LICENSE.—Simultaneously with the
12 sale of hydroelectric generation facility under this Act, the
13 Federal Energy Regulatory Commission shall issue an
14 original license under part 1 of the Federal Power Act
15 (16 U.S.C. 791a–823b) to the purchaser for the construc-
16 tion, operation, and maintenance of such facility. Such li-
17 cense shall expire on the date 10 years after the date of
18 the sale facility and shall contain standard terms and con-
19 ditions for hydroelectric power licenses issued under part
20 1 of such Act for facilities installed at Federal water
21 projects, together with such additional terms and condi-
22 tions as the Commission deems necessary, in consultation
23 with the department or agency which operates such water
24 project, to further the project purposes and insure that
25 the project will continue operations in the same manner

1 and subject to the same procedures, contracts, and other
2 requirements as were applicable prior to the sale. The
3 Commission shall publish such license terms and condi-
4 tions for each facility to be sold under this Act as promptly
5 as practicable after the date of the enactment of this Act
6 but not later than one year prior to the date established
7 for the sale of the facility.

8 (b) LICENSE REQUIRED.—Notwithstanding any
9 other provision of law, the Federal Energy Regulatory
10 Commission shall have jurisdiction under part 1 of the
11 Federal Power Act over any hydroelectric generation facil-
12 ity sold under this Act.

13 **SEC. 7. ENABLING FEDERAL STUDIES.**

14 Section 505 of the Energy and Water Development
15 Appropriations Act of 1993 (Public Law 102–377) is
16 hereby repealed.

17 **SEC. 8. DEFINITION OF POWER GENERATION FACILITY.**

18 For purposes of this Act, the term “power generation
19 facility” means a facility used for the generation of electric
20 energy. If any portion of a structure or other facility is
21 used for flood control, water supply or other purposes in
22 addition to the generation of electric energy, such term
23 refers only to that portion of the structure or facility used
24 exclusively for the generation of electric energy, including
25 turbines, generators, controls, substations, and primary

1 lines used for transmitting electric energy therefrom to the
2 point of juncture with the interconnected primary trans-
3 mission system. Such term shall not include any portion
4 of a facility used for navigation, flood control, irrigation,
5 water supply, or recreation.

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